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**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

DAVID TOURGEMAN,

Plaintiff,

vs.

COLLINS FINANCIAL SERVICES, INC., a
Texas corporation; NELSON & KENNARD, a
California partnership, DELL FINANCIAL
SERVICES, L.P., a Delaware limited
partnership; CIT FINANCIAL USA, INC., a
Delaware corporation; and DOES 1 through 10,
inclusive,

Defendants.

CASE NO.: 08-CV-1392-JLS(NLS)

**PLAINTIFF DAVID TOURGEMAN'S
SEPARATE STATEMENT OF
MATERIAL FACTS IN SUPPORT OF
HIS MOTION TO COMPEL FURTHER
RESPONSES TO REQUESTS FOR
PRODUCTION AND
INTERROGATORIES TO DEFENDANT
NELSON & KENNARD**

Date: April 5, 2010
Time: 9:30 a.m.
Courtroom: 1101
Judge: Honorable Nita L. Stormes

REQUESTS FOR PRODUCTION OF DOCUMENTS

REQUEST FOR PRODUCTION NO. 1:

Please produce ALL COMMUNICATIONS between NELSON and COLLINS that RELATE TO Plaintiff David Tourgeman and the collection of his alleged debt. To the extent that these communications need to be redacted for privilege, please provide Plaintiff with a privilege log as described above.

RESPONSE TO DOCUMENT REQUEST NO. 1:

Defendant objects to this Request on the grounds that it is overbroad, unduly burdensome and oppressive, and to the extent that it seeks information which is not relevant to the subject matter of this lawsuit, nor reasonably calculated to lead to the discovery of admissible evidence. Defendant further objects to this Request to the extent that it seeks proprietary information, trade secret information, information subject to protective orders, confidentiality agreements, or statutory provisions that bar the disclosure of that information without the consent of third parties and to the extent that it seeks information subject to the attorney-client privilege or the attorney work product doctrine.

Subject to and without waiving the forgoing objections or the General Objections, Defendant will produce all documents in its possession, custody or control that relate to the Plaintiff, his account or the defenses asserted in this action.

REASONS TO COMPEL RESPONSE TO DOCUMENT REQUEST NO. 1:

Federal Rule of Civil Procedure 34(b)(2)(C) requires that “[a]n objection to part of a request must specify the part and permit inspection of the rest.”; *see also E. & J. Gallo Winery v. Cantine Rallo, S.p.A.*, 2006 U.S. Dist. LEXIS 42069, *3-4 (E.D. Cal. 2006) (“If objection is made to part of an item or category, the part shall be specified and inspection permitted of the remaining parts. The party submitting the request may move for an order under Rule 37(a) with respect to any objection to or other failure to respond to the request or any part thereof, or any failure to permit inspection as requested.”). In *E. & J. Gallo Winery*, the court ordered the defendant to provide supplemental responses because the defendant’s original responses contained imprecise, boilerplate objections:

Defendant’s responses do not allow for meaningful evaluation. Plaintiff and the Court are unable to determine, with certainty, the requests for which Defendant is producing documents, the requests for which Defendant is withholding documents and on what basis, and the requests

for which it has no responsive documents. Defendant cites boilerplate general objections, and does not explain why the objection applies to the response or whether documents were withheld pursuant to the stated objections.

Id. at *4-5.

Nelson objects to Request No. 1 on the basis that it is “overbroad, unduly burdensome and oppressive” and “not relevant to the subject matter of this lawsuit, nor reasonably calculated to lead to the discovery of admissible evidence.” But Nelson fails to provide any explanation for these objections. *Keith H. v. Long Beach Unified Sch. Dist.*, 228 F.R.D. 652, 655-56 (C.D. Cal. 2005) (“The party who resists discovery has the burden to show discovery should not be allowed, and has the burden of clarifying, explaining, and supporting its objections.”). Moreover, because Nelson’s response is so broad and unspecific, it is impossible to tell whether documents are being withheld on the basis of the stated objections, and/or whether responsive documents even exist.

Further, Federal Rule of Civil Procedure 26(b)(5) states that:

When a party withholds information otherwise discoverable by claiming that the information is privileged or subject to protection as trial-preparation material, the party must:

- (i) expressly make the claim; and
- (ii) describe the nature of the documents, communications, or tangible things not produced or disclosed--and do so in a manner that, without revealing information itself privileged or protected, will enable other parties to assess the claim.

“A privilege log should contain the following information: (1) the identity and position of its author; (2) the identity and position of the recipient(s); (3) the date it was prepared or written; (4) the title and description of the document; (5) the subject matter addressed; (6) the purposes for which it was prepared or communicated; (7) the document’s present location; and (8) the specific privilege or other reason it is being withheld.” *Mancini v. Ins. Corp.*, 2009 U.S. Dist. LEXIS 51321, *10 (S.D. Cal. 2009). When asserting the attorney-client privilege, “[t]he party asserting the privilege bears the initial burden of demonstrating that the communication falls within the privilege.” *Bible v. Rio Props., Inc.*, 246 F.R.D. 614, 620 (C.D. Cal. 2007).

Here, Nelson asserts the attorney-client privilege and attorney work product protection to Request No. 1. The objection is stated simply as “seek[ing] information subject to the attorney-client privilege or the attorney work product doctrine.” Such a blanket assertion of the attorney-client

1 privilege or work product doctrine is insufficient to enable the propounding party to assess the
 2 applicability of the privilege or protection to the specific facts of the interrogatory in question. Further,
 3 Nelson has failed to produce a privilege log containing any of the above-described information as
 4 required by Federal Rule of Civil Procedure 26(b)(5). (Weaver Dec. ¶13). Consequently, the privilege
 5 claims cannot be properly evaluated.

6 Accordingly, Tourgeman requests that this Court order Nelson to provide a privilege log for
 7 response to Request No. 1, provide a supplemental response to Request No. 1 without the stated
 8 objections, provide a substantive response, and produce any documents improperly withheld from
 9 production.

10 **REQUEST FOR PRODUCTION NO. 2:**

11 Please produce ALL training materials RELATING TO the collection of debts YOU provide to
 12 NELSON employees.

13 **RESPONSE TO DOCUMENT REQUEST NO. 2:**

14 Defendant objects to this Request on the grounds that it is overbroad, unduly burdensome and
 15 oppressive, and to the extent that it seeks information which is not relevant to the subject matter of this
 16 lawsuit, nor reasonably calculated to lead to the discovery of admissible evidence. Defendant further
 17 objects to this Request to the extent that it seeks proprietary information, trade secret information,
 18 information subject to protective orders, confidentiality agreements, or statutory provisions that bar the
 19 disclosure of that information without the consent of third parties and to the extent that it seeks
 20 information subject to the attorney-client privilege or the attorney work product doctrine.

21 Subject to and without waiving the forgoing objections or the General Objections, upon entry of
 22 a protective order by the Court, Defendant will produce non-privileged documents that related to the
 23 claims and defenses in this action that are responsive to this Request.

24 **REASONS TO COMPEL RESPONSE TO DOCUMENT REQUEST NO. 2:**

25 Federal Rule of Civil Procedure 34(b)(2)(C) requires that “[a]n objection to part of a request
 26 must specify the part and permit inspection of the rest.”; *see also E. & J. Gallo Winery v. Cantine Rallo,*
 27 *S.p.A.*, 2006 U.S. Dist. LEXIS 42069, *3-4 (E.D. Cal. 2006) (“If objection is made to part of an item or
 28 category, the part shall be specified and inspection permitted of the remaining parts. The party

1 submitting the request may move for an order under Rule 37(a) with respect to any objection to or other
 2 failure to respond to the request or any part thereof, or any failure to permit inspection as requested.”).
 3 In *E. & J. Gallo Winery*, the court ordered the defendant to provide supplemental responses because the
 4 defendant’s original responses contained imprecise, boilerplate objections:

5 Defendant’s responses do not allow for meaningful evaluation. Plaintiff
 6 and the Court are unable to determine, with certainty, the requests for
 7 which Defendant is producing documents, the requests for which
 8 Defendant is withholding documents and on what basis, and the requests
 9 for which it has no responsive documents. Defendant cites boilerplate
 10 general objections, and does not explain why the objection applies to the
 11 response or whether documents were withheld pursuant to the stated
 12 objections.

13 *Id.* at *4-5.

14 Nelson objects to Request No. 2 on the basis that it is “overbroad, unduly burdensome and
 15 oppressive” and “not relevant to the subject matter of this lawsuit, nor reasonably calculated to lead to
 16 the discovery of admissible evidence.” But Nelson fails to provide any explanation for these objections.
 17 *Keith H. v. Long Beach Unified Sch. Dist.*, 228 F.R.D. 652, 655-56 (C.D. Cal. 2005) (“The party who
 18 resists discovery has the burden to show discovery should not be allowed, and has the burden of
 19 clarifying, explaining, and supporting its objections.”). Moreover, because Nelson’s response is so
 20 broad and unspecific, it is impossible to tell whether documents are being withheld on the basis of the
 21 stated objections, and/or whether responsive documents even exist.

22 Further, Federal Rule of Civil Procedure 26(b)(5) states that:

23 When a party withholds information otherwise discoverable by claiming
 24 that the information is privileged or subject to protection as trial-
 25 preparation material, the party must:

- 26 (i) expressly make the claim; and
- 27 (ii) describe the nature of the documents, communications, or tangible things
 28 not produced or disclosed--and do so in a manner that, without revealing
 information itself privileged or protected, will enable other parties to
 assess the claim.

“A privilege log should contain the following information: (1) the identity and position of its
 author; (2) the identity and position of the recipient(s); (3) the date it was prepared or written; (4) the
 title and description of the document; (5) the subject matter addressed; (6) the purposes for which it was
 prepared or communicated; (7) the document’s present location; and (8) the specific privilege or other

1 reason it is being withheld.” *Mancini v. Ins. Corp.*, 2009 U.S. Dist. LEXIS 51321, *10 (S.D. Cal.
2 2009). When asserting the attorney-client privilege, “[t]he party asserting the privilege bears the initial
3 burden of demonstrating that the communication falls within the privilege.” *Bible v. Rio Props., Inc.*,
4 246 F.R.D. 614, 620 (C.D. Cal. 2007).

5 Here, Nelson asserts the attorney-client privilege and attorney work product protection to
6 Request No. 2. The objection is stated simply as “seek[ing] information subject to the attorney-client
7 privilege or the attorney work product doctrine.” Such a blanket assertion of the attorney-client
8 privilege or work product doctrine is insufficient to enable the propounding party to assess the
9 applicability of the privilege or protection to the specific facts of the interrogatory in question. Further,
10 Nelson has failed to produce a privilege log containing any of the above-described information as
11 required by Federal Rule of Civil Procedure 26(b)(5). (Weaver Dec. ¶13). Consequently, the privilege
12 claims cannot be properly evaluated.

13 Nelson only agrees to produce documents related to the claims and defenses in this case. This
14 response is unclear. The Request seeks all training materials Nelson’s provides its employees that are
15 related to the collection of debts. The Complaint, however, does not limit Nelson’s alleged improper
16 debt collection practices to the alleged debt collected from Tourgeman. Indeed, the Complaint includes
17 class allegations and a class comprised of:

18 All consumers residing in the United States and abroad who, during the
19 period within one year of the date of the filing of the complaint, were
20 contacted or sued in the United States by either Collins Financial or Nelson
& Kennard in an effort to collect an alleged debt.

21 Further, the Complaint contains numerous allegations that Nelson improperly initiates
22 collections and unlawfully files lawsuits against debtors. In particular, the Complaint explicitly alleges
23 that Nelson “fails to take the time and effort to verify the alleged debts or ensure that the lawsuits it files
24 are legitimate and accurate.” ¶32. The Complaint also specifies that Nelson “attempts to quickly obtain
25 default judgments against consumers without having original or copies of original agreements to prove
26 the existence, terms, and amount of the debt, and in many cases without having proper information
27 regarding the location of the debtor, thus obtaining default judgments without effectuating proper
28 service.” ¶32. The Complaint also notes that “Nelson & Kennard rely on affidavits signed by
individuals who the collection law firms know have no knowledge of the underlying facts and file

1 verified complaints in which they attest to the truthfulness and accuracy of the information regarding
2 the alleged debt.” ¶35. In other words, regardless of whether the alleged creditor is Collins or the
3 alleged debtor is Tourgeman, Nelson does not verify information before it initiates collections and files
4 lawsuits. As such, Nelson’s entire debt collection practices are at issue.

5 Since Nelson’s debt collection practices as a whole are at issue, the training materials sought in
6 this Request are relevant to showing how Nelson conducts its debt collection practices. Therefore,
7 Nelson’s attempt to limit the scope of this Request is improper.

8 Accordingly, Tourgeman requests that this Court order Nelson to provide a privilege log for
9 response to Request No. 2 or provide a supplemental response to Request No. 2 without the stated
10 objections, provide a substantive response, and produce any documents improperly withheld from
11 production.

12 **REQUEST FOR PRODUCTION NO. 3:**

13 Please produce ALL DOCUMENTS CONCERNING the duties and responsibilities of
14 NELSON employees who receive data RELATING to alleged debts.

15 **RESPONSE TO DOCUMENT REQUEST NO. 3:**

16 Defendant objects to this Request on the grounds that it is vague and ambiguous as to the term
17 “receive data RELATING to alleged debts.” Nelson & Kennard is a debt collection law firm and the
18 Request could be read to cover virtually every employee of the firm. Defendant also objects to this
19 Request on the grounds that it is overbroad, unduly burdensome and oppressive, and to the extent that it
20 seeks information which is not relevant to the subject matter of this lawsuit, nor reasonably calculated
21 to lead to the discovery of admissible evidence. Defendant further objects to this Request to the extent
22 that it seeks proprietary information, trade secret information, information subject to protective orders,
23 confidentiality agreements, or statutory provisions that bar the disclosure of that information without the
24 consent of third parties and to the extent that it seeks information subject to the attorney-client privilege
25 or the attorney work product doctrine.

26 Subject to and without waiving the forgoing objections or the General Objections, Defendant
27 responds that it is willing to meet and confer with Plaintiff to discuss the scope of this Request and any
28 response thereto.

SUPPLEMENTAL RESPONSE TO DOCUMENT REQUEST NO. 3:

Defendant objects to this Request on the grounds that it is vague and ambiguous as to the term “receive data RELATING to alleged debts.” Nelson & Kennard is a debt collection law firm and the Request could be read to cover virtually every employee of the firm. Defendant also objects to this Request on the grounds that it is overbroad, unduly burdensome and oppressive, and to the extent that it seeks information which is not relevant to the subject matter of this lawsuit, nor reasonably calculated to lead to the discovery of admissible evidence. Plaintiff does not claim that his account data was altered by Nelson & Kennard because the firm employed faulty procedures for “receiving debt related information.” Rather, Plaintiff alleges that he paid Dell in full for his computer before the account was ever sold to Collins Financial Services. Any “debt related information” concerning his account, was according to Plaintiff’s theory, already inaccurate when it was sold to Collins. The law firm’s policies relating to receiving “debt related information” from its client are not relevant. Defendant further objects to this Request to the extent that it seeks proprietary information, trade secret information, information subject to protective orders, confidentiality agreements, or statutory provisions that bar the disclosure of that information without the consent of third parties and to the extent that it seeks information subject to the attorney-client privilege or the attorney work product doctrine.

Subject to and without waiving the foregoing objections or the General Objections, Defendant responds as follows: Assuming that Plaintiff seeks information regarding the specific duties and procedures of the persons responsible for uploading the account data received from clients at the time an account is placed for collection with Defendant, Defendant will produce responsive documents.

REASONS TO COMPEL RESPONSE TO DOCUMENT REQUEST NO. 3:

Federal Rule of Civil Procedure 34(b)(2)(C) requires that “[a]n objection to part of a request must specify the part and permit inspection of the rest.”; *see also E. & J. Gallo Winery v. Cantine Rallo, S.p.A.*, 2006 U.S. Dist. LEXIS 42069, *3-4 (E.D. Cal. 2006) (“If objection is made to part of an item or category, the part shall be specified and inspection permitted of the remaining parts. The party submitting the request may move for an order under Rule 37(a) with respect to any objection to or other failure to respond to the request or any part thereof, or any failure to permit inspection as requested.”).

1 In *E. & J. Gallo Winery*, the court ordered the defendant to provide supplemental responses because the
2 defendant's original responses contained imprecise, boilerplate objections:

3 Defendant's responses do not allow for meaningful evaluation. Plaintiff
4 and the Court are unable to determine, with certainty, the requests for
5 which Defendant is producing documents, the requests for which
6 Defendant is withholding documents and on what basis, and the requests
7 for which it has no responsive documents. Defendant cites boilerplate
8 general objections, and does not explain why the objection applies to the
9 response or whether documents were withheld pursuant to the stated
10 objections.

11 *Id.* at *4-5.

12 Nelson objects to Request No. 3 on the basis that it is "overbroad, unduly burdensome and
13 oppressive" and "not relevant to the subject matter of this lawsuit, nor reasonably calculated to lead to
14 the discovery of admissible evidence." Nelson argues that Tourgeman's debt related information was
15 already inaccurate when it was sold to Collins. This response misses the point. The Request seeks
16 documents concerning the duties and responsibilities of Nelson employees who receive data relating to
17 alleged debts. The documents sought reveal certain aspects of Nelson's debt collection practices, such
18 as whether its employees are properly trained to comply with applicable rules and regulations. Thus, it
19 is not important for purposes of this document Request if Tourgeman's debt related information was
20 inaccurate.

21 Nelson objects to Request No. 3 on the basis that the term "receive data relating to alleged
22 debts" is vague and ambiguous. Nelson, however, has failed to exercise reason and common sense to
23 attribute ordinary definitions to terms and phrases utilized in discovery. *Santana Row Hotel Partners,*
24 *L.P. v. Zurich Am. Ins. Co.*, 2007 U.S. Dist. LEXIS 31688 (N.D. Cal. 2007). Nelson's contention that
25 this covers every employee of the firm is grossly overstated. This Request only refers to the employees
26 who receive debt related information. Thus, this boilerplate objection cannot be sustained.

27 Further, Federal Rule of Civil Procedure 26(b)(5) states that:

28 When a party withholds information otherwise discoverable by claiming
that the information is privileged or subject to protection as trial-
preparation material, the party must:

- (i) expressly make the claim; and
- (ii) describe the nature of the documents, communications, or tangible things not produced or disclosed--and do so in a manner that, without revealing information itself privileged or protected, will enable other parties to assess the claim.

1
2 “A privilege log should contain the following information: (1) the identity and position of its
3 author; (2) the identity and position of the recipient(s); (3) the date it was prepared or written; (4) the
4 title and description of the document; (5) the subject matter addressed; (6) the purposes for which it was
5 prepared or communicated; (7) the document’s present location; and (8) the specific privilege or other
6 reason it is being withheld.” *Mancini v. Ins. Corp.*, 2009 U.S. Dist. LEXIS 51321, *10 (S.D. Cal.
7 2009). When asserting the attorney-client privilege, “[t]he party asserting the privilege bears the initial
8 burden of demonstrating that the communication falls within the privilege.” *Bible v. Rio Props., Inc.*,
9 246 F.R.D. 614, 620 (C.D. Cal. 2007).

10 Here, Nelson asserts the attorney-client privilege and attorney work product protection to
11 Request No. 3. The objection is stated simply as “seek[ing] information subject to the attorney-client
12 privilege or the attorney work product doctrine.” Such a blanket assertion of the attorney-client
13 privilege or work product doctrine is insufficient to enable the propounding party to assess the
14 applicability of the privilege or protection to the specific facts of the interrogatory in question. Further,
15 Nelson has failed to produce a privilege log containing any of the above-described information as
16 required by Federal Rule of Civil Procedure 26(b)(5). (Weaver Dec. ¶13). Consequently, the privilege
17 claims cannot be properly evaluated.

18 Lastly, Nelson originally tried to restrict the scope of Request No. 3 to documents related only to
19 Collins. Now, Nelson has abandoned that position, but still attempts to narrow the scope of the requests
20 by agreeing to produce only documents related to the duties and procedures of the persons who *upload*
21 *the account data received from clients*. Request No. 3, however, was intended to be much broader.
22 Request No. 3 seeks documents showing the duties and responsibilities of all the Nelson employees
23 who receive data relating to alleged debts. These documents are highly relevant because they
24 demonstrate how Nelson’s employees conduct their debt collection practices. And since there are
25 several Nelson employees who may receive the debt related information and participate in the debt
26 collection process, Nelson’s supplemental response is insufficient.

1 Accordingly, Tourgeman requests that this Court order Nelson to provide a supplemental
2 response to Request No. 3 without the stated objections, provide a substantive response, and produce
3 any documents improperly withheld from production.

4 **REQUEST FOR PRODUCTION NO. 5:**

5 Please produce ALL DOCUMENTS that RELATE TO YOUR policies and guidelines for filing
6 a lawsuit against an alleged debtor.

7 **RESPONSE TO REQUEST FOR PRODUCTION NO. 5:**

8 Defendant objects to this Request on the grounds that it is overbroad, unduly burdensome and
9 oppressive, and to the extent that it seeks information which is not relevant to the subject matter of this
10 lawsuit, nor reasonably calculated to lead to the discovery of admissible evidence. Nelson & Kennard
11 is a collection law firm with a number of clients. The Request is so vague and broad and written it
12 could potentially be read to request copies of every document maintained by the firm.

13 Subject to and without waiving the forgoing objections or the General Objections, Defendant is
14 willing to meet and confer with Plaintiff to discuss this request and the scope of any response.

15 **SUPPLEMENTAL RESPONSE TO DOCUMENT REQUEST NO. 5:**

16 Defendant objects to this Request on the grounds that it is overbroad, unduly burdensome and
17 oppressive, and the extent that it seeks information which is not relevant to the subject matter of this
18 lawsuit, nor reasonably calculated to lead to the discovery of admissible evidence. Nelson & Kennard
19 is a collection law firm with a number of clients. The Request is so vague and broad and written it
20 could potentially be read to request copies of every document maintained by the firm.

21 Subject to and without waiving the forgoing objections or the General Objections, Defendant
22 responds as follows: Assuming that Plaintiff seeks documents related to written policies and guidelines
23 for filing suit against a debtor, without waiving any objection that the requested documents are
24 protected by the attorney-client privilege or attorney work product doctrine, Defendant will produce
25 responsive documents.

26 **REASONS TO COMPEL RESPONSE TO DOCUMENT REQUEST NO. 5:**

27 Federal Rule of Civil Procedure 34(b)(2)(C) requires that “[a]n objection to part of a request
28 must specify the part and permit inspection of the rest.”; *see also E. & J. Gallo Winery v. Cantine Rallo*,

1 *S.p.A.*, 2006 U.S. Dist. LEXIS 42069, *3-4 (E.D. Cal. 2006) (“If objection is made to part of an item or
 2 category, the part shall be specified and inspection permitted of the remaining parts. The party
 3 submitting the request may move for an order under Rule 37(a) with respect to any objection to or other
 4 failure to respond to the request or any part thereof, or any failure to permit inspection as requested.”).
 5 In *E. & J. Gallo Winery*, the court ordered the defendant to provide supplemental responses because the
 6 defendant’s original responses contained imprecise, boilerplate objections:

7 Defendant’s responses do not allow for meaningful evaluation. Plaintiff
 8 and the Court are unable to determine, with certainty, the requests for
 9 which Defendant is producing documents, the requests for which
 10 Defendant is withholding documents and on what basis, and the requests
 for which it has no responsive documents. Defendant cites boilerplate
 general objections, and does not explain why the objection applies to the
 response or whether documents were withheld pursuant to the stated
 objections.

11 *Id.* at *4-5.

12 Nelson objects to Request No. 5 on the basis that it is “overbroad, unduly burdensome and
 13 oppressive” and “not relevant to the subject matter of this lawsuit, nor reasonably calculated to lead to
 14 the discovery of admissible evidence.” Nelson merely states that it is a law firm with a number of
 15 clients. This is an insufficient basis for an objection. *See Keith H. v. Long Beach Unified Sch. Dist.*,
 16 228 F.R.D. 652, 655-56 (C.D. Cal. 2005) (“The party who resists discovery has the burden to show
 17 discovery should not be allowed, and has the burden of clarifying, explaining, and supporting its
 18 objections.”). Additionally, Nelson’s contention that this Request potentially covers every document
 19 maintained by the firm is without merit. This Request is limited to documents related to Nelson’s
 20 policies and guidelines for filing lawsuits against alleged debtors.

21 Nelson objects to Request Nos. 5 on the basis that the Request is vague and ambiguous. Nelson,
 22 however, has failed to exercise reason and common sense to attribute ordinary definitions to terms and
 23 phrases utilized in discovery. *Santana Row Hotel Partners, L.P. v. Zurich Am. Ins. Co.*, 2007 U.S. Dist.
 24 LEXIS 31688 (N.D. Cal. 2007). Further, Nelson has offered little to no meaningful facts to support the
 25 stated objections. Thus, this boilerplate objection cannot be sustained.

26 Further, Federal Rule of Civil Procedure 26(b)(5) states that:

27 When a party withholds information otherwise discoverable by claiming
 28 that the information is privileged or subject to protection as trial-
 preparation material, the party must:

- 1 (i) expressly make the claim; and
- 2 (ii) describe the nature of the documents, communications, or tangible things
- 3 not produced or disclosed--and do so in a manner that, without revealing
- 4 information itself privileged or protected, will enable other parties to
- 5 assess the claim.

6 “A privilege log should contain the following information: (1) the identity and position of its

7 author; (2) the identity and position of the recipient(s); (3) the date it was prepared or written; (4) the

8 title and description of the document; (5) the subject matter addressed; (6) the purposes for which it was

9 prepared or communicated; (7) the document’s present location; and (8) the specific privilege or other

10 reason it is being withheld.” *Mancini v. Ins. Corp.*, 2009 U.S. Dist. LEXIS 51321, *10 (S.D. Cal.

11 2009). When asserting the attorney-client privilege, “[t]he party asserting the privilege bears the initial

12 burden of demonstrating that the communication falls within the privilege.” *Bible v. Rio Props., Inc.*,

13 246 F.R.D. 614, 620 (C.D. Cal. 2007).

14 Here, Nelson asserts the attorney-client privilege and attorney work product protection to

15 Request No. 5. The objection is stated simply as “without waiving any objection that the requested

16 documents are protected by the attorney-client privilege or attorney work product doctrine.” Such a

17 blanket assertion of the attorney-client privilege or work product doctrine is insufficient to enable the

18 propounding party to assess the applicability of the privilege or protection to the specific facts of the

19 interrogatory in question. Further, Nelson has failed to produce a privilege log containing any of the

20 above-described information as required by Federal Rule of Civil Procedure 26(b)(5). (Weaver Dec.

21 ¶13). Consequently, the privilege claims cannot be properly evaluated.

22 Accordingly, Tourgeman requests that this Court order Nelson to provide a privilege log for

23 response to Request No. 5, provide a supplemental response to Request No. 5 without the stated

24 objections, provide a substantive response, and produce any documents improperly withheld from

25 production.

26 **REQUEST FOR PRODUCTION NO. 6:**

27 Please produce ALL DOCUMENTS that RELATE TO YOUR policies and guidelines for

28 dismissing a complaint against an alleged debtor.

RESPONSE TO REQUEST FOR PRODUCTION NO. 6:

Defendant objects to this Request on the grounds that it is overbroad, unduly burdensome and oppressive, and to the extent that it seeks information which is not relevant to the subject matter of this lawsuit, nor reasonably calculated to lead to the discovery of admissible evidence. Nelson & Kennard is a collection law firm with a number of clients. Decisions to dismiss particular lawsuits on behalf of particular clients will necessarily be made on a case by case basis. Documents relating to Plaintiff and the litigation relating to his account will be produced, but the firm will not agree to produce all documents that relate to its decision to dismiss other cases on behalf of other clients.

SUPPLEMENTAL RESPONSE TO DOCUMENT REQUEST NO. 6:

Defendant objects to this Request on the grounds that it is overbroad, unduly burdensome and oppressive, and to the extent that it seeks information which is not relevant to the subject matter of this lawsuit, nor reasonably calculated to lead to the discovery of admissible evidence. Nelson & Kennard is a collection law firm with a number of clients. Decisions to dismiss particular lawsuits on behalf of particular clients will necessarily be made on a case by case basis, in light of the status of the case and various other factors that may be considered by the attorney.

Subject to and without waiving the forgoing objections or the General Objections, Defendant responds as follows: Without waiving any objection that the requested documents are protected by the attorney-client privilege or attorney work product doctrine, Defendant will produce documents, to the extent any exist, which relate to its general standards for dismissing collection complaints.

REASONS TO COMPEL RESPONSE TO DOCUMENT REQUEST NO. 6:

Federal Rule of Civil Procedure 34(b)(2)(C) requires that “[a]n objection to part of a request must specify the part and permit inspection of the rest.”; *see also E. & J. Gallo Winery v. Cantine Rallo, S.p.A.*, 2006 U.S. Dist. LEXIS 42069, *3-4 (E.D. Cal. 2006) (“If objection is made to part of an item or category, the part shall be specified and inspection permitted of the remaining parts. The party submitting the request may move for an order under Rule 37(a) with respect to any objection to or other failure to respond to the request or any part thereof, or any failure to permit inspection as requested.”). In *E. & J. Gallo Winery*, the court ordered the defendant to provide supplemental responses because the defendant’s original responses contained imprecise, boilerplate objections:

Defendant's responses do not allow for meaningful evaluation. Plaintiff and the Court are unable to determine, with certainty, the requests for which Defendant is producing documents, the requests for which Defendant is withholding documents and on what basis, and the requests for which it has no responsive documents. Defendant cites boilerplate general objections, and does not explain why the objection applies to the response or whether documents were withheld pursuant to the stated objections.

Id. at *4-5.

Nelson objects to Request No. 6 on the basis that it is "overbroad, unduly burdensome and oppressive" and "not relevant to the subject matter of this lawsuit, nor reasonably calculated to lead to the discovery of admissible evidence." Nelson argues it is a collections firm with a number of clients and that decisions to dismiss lawsuits are made on a case by case basis. But this Request asks for Nelson's policies and guidelines for dismissing complaints against alleged debtors. The Request is clear. Since Nelson's response is so broad and unspecific, it is impossible to tell whether documents are being withheld on the basis of the stated objections, and/or whether responsive documents even exist.

Further, Federal Rule of Civil Procedure 26(b)(5) states that:

When a party withholds information otherwise discoverable by claiming that the information is privileged or subject to protection as trial-preparation material, the party must:

- (i) expressly make the claim; and
- (ii) describe the nature of the documents, communications, or tangible things not produced or disclosed--and do so in a manner that, without revealing information itself privileged or protected, will enable other parties to assess the claim.

"A privilege log should contain the following information: (1) the identity and position of its author; (2) the identity and position of the recipient(s); (3) the date it was prepared or written; (4) the title and description of the document; (5) the subject matter addressed; (6) the purposes for which it was prepared or communicated; (7) the document's present location; and (8) the specific privilege or other reason it is being withheld." *Mancini v. Ins. Corp.*, 2009 U.S. Dist. LEXIS 51321, *10 (S.D. Cal. 2009). When asserting the attorney-client privilege, "[t]he party asserting the privilege bears the initial burden of demonstrating that the communication falls within the privilege." *Bible v. Rio Props., Inc.*, 246 F.R.D. 614, 620 (C.D. Cal. 2007).

Here, Nelson asserts the attorney-client privilege and attorney work product protection to Request No. 6. The objection is stated simply as “[w]ithout waiving any objection that the requested documents are protected by the attorney-client privilege or attorney work product doctrine.” Such a blanket assertion of the attorney-client privilege or work product doctrine is insufficient to enable the propounding party to assess the applicability of the privilege or protection to the specific facts of the interrogatory in question. Further, Nelson has failed to produce a privilege log containing any of the above-described information as required by Federal Rule of Civil Procedure 26(b)(5). (Weaver Dec. ¶13). Consequently, the privilege claims cannot be properly evaluated.

Accordingly, Tourgeman requests that this Court order Nelson to provide a privilege log for response to Request No. 6, provide a supplemental response to Request No. 6 without the stated objections, provide a substantive response, and produce any documents improperly withheld from production.

REQUEST FOR PRODUCTION NO. 7:

Please produce ALL form letters, enclosures, envelopes, complaints, memoranda, etc., used by NELSON in its debt collection activity.

RESPONSE TO REQUEST FOR PRODUCTION NO. 7:

Defendant objects to this Request on the grounds that it is overbroad, unduly burdensome and oppressive, and to the extent that it seeks information which is not relevant to the subject matter of this lawsuit, nor reasonably calculated to lead to the discovery of admissible evidence. Nelson & Kennard is a collection law firm with a number of clients. Documents relating to Plaintiff and the litigation relating to his account will be produced, but the firm will not agree to produce all documents that relate to other cases filed on behalf of other clients.

REASONS TO COMPEL RESPONSE TO DOCUMENT REQUEST NO. 7:

Federal Rule of Civil Procedure 34(b)(2)(C) requires that “[a]n objection to part of a request must specify the part and permit inspection of the rest.”; *see also E. & J. Gallo Winery v. Cantine Rallo, S.p.A.*, 2006 U.S. Dist. LEXIS 42069, *3-4 (E.D. Cal. 2006) (“If objection is made to part of an item or category, the part shall be specified and inspection permitted of the remaining parts. The party submitting the request may move for an order under Rule 37(a) with respect to any objection to or other

failure to respond to the request or any part thereof, or any failure to permit inspection as requested.”). In *E. & J. Gallo Winery*, the court ordered the defendant to provide supplemental responses because the defendant’s original responses contained imprecise, boilerplate objections:

Defendant’s responses do not allow for meaningful evaluation. Plaintiff and the Court are unable to determine, with certainty, the requests for which Defendant is producing documents, the requests for which Defendant is withholding documents and on what basis, and the requests for which it has no responsive documents. Defendant cites boilerplate general objections, and does not explain why the objection applies to the response or whether documents were withheld pursuant to the stated objections.

Id. at *4-5.

Nelson objects to Request No. 7 on the basis that it is “overbroad, unduly burdensome and oppressive” and “not relevant to the subject matter of this lawsuit, nor reasonably calculated to lead to the discovery of admissible evidence.” But Nelson fails to provide any explanation for these objections. *Keith H. v. Long Beach Unified Sch. Dist.*, 228 F.R.D. 652, 655-56 (C.D. Cal. 2005) (“The party who resists discovery has the burden to show discovery should not be allowed, and has the burden of clarifying, explaining, and supporting its objections.”). Moreover, because Nelson’s response is so broad and unspecific, it is impossible to tell whether documents are being withheld on the basis of the stated objections, and/or whether responsive documents even exist.

Nelson also improperly narrows the scope of Request No. 7 and attempts to limit production to documents related only to Tourgeman. The Complaint, however, does not limit Nelson’s alleged improper debt collection practices to the alleged debt collected from Tourgeman. Indeed, the Complaint includes class allegations and a class comprised of:

All consumers residing in the United States and abroad who, during the period within one year of the date of the filing of the complaint, were contacted or sued in the United States by either Collins Financial or Nelson & Kennard in an effort to collect an alleged debt.

Further, the Complaint contains numerous allegations that Nelson improperly initiates collections and unlawfully files lawsuits against debtors. In particular, the Complaint explicitly alleges that Nelson “fails to take the time and effort to verify the alleged debts or ensure that the lawsuits it files are legitimate and accurate.” ¶32. The Complaint also specifies that Nelson “attempts to quickly obtain default judgments against consumers without having original or copies of original agreements to prove

1 the existence, terms, and amount of the debt, and in many cases without having proper information
2 regarding the location of the debtor, thus obtaining default judgments without effectuating proper
3 service.” ¶32. The Complaint also notes that “Nelson & Kennard rely on affidavits signed by
4 individuals who the collection law firms know have no knowledge of the underlying facts and file
5 verified complaints in which they attest to the truthfulness and accuracy of the information regarding
6 the alleged debt.” ¶35. In other words, regardless of whether the alleged creditor is Collins or the
7 alleged debtor is Tourgeman, Nelson does not verify information before it initiates collections and files
8 lawsuits. As such, Nelson’s entire debt collection practices are at issue.

9 Since Nelson’s debt collection practices as a whole are at issue, all form letters, form
10 complaints, and other form documents are relevant to showing how Nelson conducts its debt collection
11 practices. Part of Nelson’s debt collection involves its communications with alleged debtors. Further,
12 because this is a class action lawsuit challenging Nelson’s business practices, Nelson’s offer to produce
13 documents related only to Tourgeman and his account is insufficient. Thus, Request No. 7 is relevant
14 and cannot be narrowed.

15 Accordingly, Tourgeman requests that this Court order Nelson to provide a supplemental
16 response to Request No. 7 without the stated objections, provide a substantive response, and produce
17 any documents improperly withheld from production.

18 **REQUEST FOR PRODUCTION NO. 8:**

19 Please produce ALL DOCUMENTS that RELATE TO YOUR investigation of Plaintiff David
20 Tourgeman’s alleged debt.

21 **RESPONSE TO REQUEST FOR PRODUCTION NO. 8:**

22 Defendant objects to this Request of the grounds that it is vague and ambiguous as to the term
23 “investigation.” Nelson & Kennard is a collection law firm, not an investigation firm. The firm is not
24 required by law to conduct an independent investigation into the accounts that are placed with it for
25 collection. Subject to and without waiving the forgoing objections or the General Objections,
26 Defendant will produce non-privileged documents in its possession, custody or control that relate to
27 Plaintiff, his account or the defenses asserted in this action.
28

REASONS TO COMPEL RESPONSE TO DOCUMENT REQUEST NO. 8:

Nelson objects to document Request No. 8 on the basis that the term “investigation” is vague and ambiguous. Nelson, however, has failed to exercise reason and common sense to attribute ordinary definitions to terms and phrases utilized in discovery. *Santana Row Hotel Partners, L.P. v. Zurich Am. Ins. Co.*, 2007 U.S. Dist. LEXIS 31688 (N.D. Cal. 2007). Further, Nelson has offered little meaningful facts to support the stated objections, contending it is a collections firm and not an investigation firm. Although Nelson is a collections firm, it must conduct some type of investigation before it files lawsuits against alleged debtors. Thus, this boilerplate objection cannot be sustained.

Accordingly, Tourgeman requests that this Court order Nelson to provide a supplemental response to Request No. 8 without the stated objections, provide a substantive response, and produce any documents improperly withheld from production.

REQUEST FOR PRODUCTION NO. 9:

Please produce ALL DOCUMENTS that RELATE TO any communication between YOU and COLLINS regarding collection practices and procedures.

RESPONSE TO REQUEST FOR PRODUCTION NO. 9:

Defendant objects to this Request on the grounds that it is vague and ambiguous with respect to the term “regarding collection practices and procedures.” Subject to and without waiving the foregoing objections or the General Objections, Defendant responds as follows: No such documents exist.

REASONS TO COMPEL RESPONSE TO DOCUMENT REQUEST NO. 9:

Nelson objects to document Request No. 9 on the basis that the term “regarding collection practices and procedures” is vague and ambiguous. Nelson, however, has failed to exercise reason and common sense to attribute ordinary definitions to terms and phrases utilized in discovery. *Santana Row Hotel Partners, L.P. v. Zurich Am. Ins. Co.*, 2007 U.S. Dist. LEXIS 31688 (N.D. Cal. 2007). Further, Nelson has offered no facts to support the stated objections. Thus, this boilerplate objection cannot be sustained.

Further, Nelson’s response that “No such documents exist” is suspect. Collins is an entity specializing in debt collections while Nelson is a law firm that specializes in debt collection lawsuits. The two firms are frequently in contact as Collins regularly utilizes Nelson’s services. Therefore, it is

highly unlikely that there are no documents evidencing communications concerning Nelson's or Collins's debt collection practices and procedures.

Accordingly, Tourgeman requests that this Court order Nelson to provide a supplemental response to Request No. 9 without the stated objections, provide a substantive response, and produce any documents improperly withheld from production.

REQUEST FOR PRODUCTION NO. 10:

Please produce ALL complaints YOU filed on behalf of COLLINS from July 31, 2007 to the present suing for breach of contract or under Rule 3.740 "collections cases."

RESPONSE TO REQUEST FOR PRODUCTION NO. 10:

Defendant also objects to this Request on the grounds that it is overbroad, unduly burdensome and oppressive, and to the extent that it seeks information which is not relevant to the subject matter of this lawsuit, nor reasonably calculated to lead to the discovery of admissible evidence. Complaints filed by Nelson & Kennard against other debtors have no bearing on this action. Defendant does not concede that Plaintiff may pursue this action as purported class action nor does Defendant concede that, even if class treatment were appropriate, that a class action is proper here, or that Plaintiff is a proper class representative with standing to pursue claims on behalf of a purported class. At best, the Request is premature.

REASONS TO COMPEL RESPONSE TO DOCUMENT REQUEST NO. 10:

Federal Rule of Civil Procedure 34(b)(2)(C) requires that "[a]n objection to part of a request must specify the part and permit inspection of the rest."; *see also E. & J. Gallo Winery v. Cantine Rallo, S.p.A.*, 2006 U.S. Dist. LEXIS 42069, *3-4 (E.D. Cal. 2006) ("If objection is made to part of an item or category, the part shall be specified and inspection permitted of the remaining parts. The party submitting the request may move for an order under Rule 37(a) with respect to any objection to or other failure to respond to the request or any part thereof, or any failure to permit inspection as requested."). In *E. & J. Gallo Winery*, the court ordered the defendant to provide supplemental responses because the defendant's original responses contained imprecise, boilerplate objections:

Defendant's responses do not allow for meaningful evaluation. Plaintiff and the Court are unable to determine, with certainty, the requests for which Defendant is producing documents, the requests for which Defendant is withholding documents and on what basis, and the requests

1 for which it has no responsive documents. Defendant cites boilerplate
2 general objections, and does not explain why the objection applies to the
3 response or whether documents were withheld pursuant to the stated
objections.

3 *Id.* at *4-5.

4 Nelson objects to Request No. 10 on the basis that it is “overbroad, unduly burdensome and
5 oppressive” and “not relevant to the subject matter of this lawsuit, nor reasonably calculated to lead to
6 the discovery of admissible evidence.” But Nelson fails to provide any meaningful explanation for
7 these objections. *Keith H. v. Long Beach Unified Sch. Dist.*, 228 F.R.D. 652, 655-56 (C.D. Cal. 2005)
8 (“The party who resists discovery has the burden to show discovery should not be allowed, and has the
9 burden of clarifying, explaining, and supporting its objections.”). Moreover, because Nelson’s response
10 is so broad and unspecific, it is impossible to tell whether documents are being withheld on the basis of
11 the stated objections, and/or whether responsive documents even exist.

12 Nelson also claims that “[c]omplaints filed by Nelson & Kennard against other debtors have no
13 bearing on this action.” The Complaint, however, contains class allegations that Nelson engages in
14 improper debt collection activities. Indeed, the Complaint includes class allegations and a class
15 comprised of:

16 All consumers residing in the United States and abroad who, during the
17 period within one year of the date of the filing of the complaint, were
18 contacted or sued in the United States by either Collins Financial or Nelson
& Kennard in an effort to collect an alleged debt.

19 Further, the Complaint contains numerous allegations that Nelson improperly initiates
20 collections and unlawfully files lawsuits against debtors. In particular, the Complaint explicitly alleges
21 that Nelson “fails to take the time and effort to verify the alleged debts or ensure that the lawsuits it files
22 are legitimate and accurate.” ¶32. The Complaint also specifies that Nelson “attempts to quickly obtain
23 default judgments against consumers without having original or copies of original agreements to prove
24 the existence, terms, and amount of the debt, and in many cases without having proper information
25 regarding the location of the debtor, thus obtaining default judgments without effectuating proper
26 service.” ¶32. The Complaint also notes that “Nelson & Kennard rely on affidavits signed by
27 individuals who the collection law firms know have no knowledge of the underlying facts and file
28 verified complaints in which they attest to the truthfulness and accuracy of the information regarding

1 the alleged debt.” ¶35. In other words, regardless of whether the alleged creditor is Collins or the
 2 alleged debtor is Tourgeman, Nelson does not verify information before it initiates collections and files
 3 lawsuits. As such, Nelson’s entire debt collection practices are at issue.

4 Since Nelson’s debt collection practices as a whole are at issue, all complaints filed on Collins’s
 5 behalf are relevant to establishing whether Nelson files legitimate and accurate lawsuits. Part of
 6 Nelson’s improper practices involves its decision to file lawsuits against alleged debtors. Thus, Request
 7 No. 10 is relevant and cannot be narrowed.

8 Accordingly, Tourgeman requests that this Court order Nelson to provide a supplemental
 9 response to Request No. 10 without the stated objections, provide a substantive response, and produce
 10 any documents improperly withheld from production.

11 **REQUEST FOR PRODUCTION NO. 11:**

12 Please produce ALL DOCUMENTS that RELATE TO financial arrangements between YOU
 13 and COLLINS.

14 **RESPONSE TO REQUEST FOR PRODUCTION NO. 11:**

15 Defendant objects to this Request on the grounds that it is vague and ambiguous as to the term
 16 “financial arrangements.” Subject to the forgoing, Defendant responds as follows: “No such
 17 documents exist.”

18 **REASONS TO COMPEL RESPONSE TO DOCUMENT REQUEST NO. 11:**

19 Nelson objects to Request No. 11 on the basis that the term “financial arrangements” is vague
 20 and ambiguous. Nelson, however, has failed to exercise reason and common sense to attribute ordinary
 21 definitions to terms and phrases utilized in discovery. *Santana Row Hotel Partners, L.P. v. Zurich Am.*
 22 *Ins. Co.*, 2007 U.S. Dist. LEXIS 31688 (N.D. Cal. 2007). This Request is clear and seeks documents
 23 evidencing payments from Collins to Nelson for services rendered. Stated differently, this Request
 24 seeks documents that show how Nelson is compensated for the services it provides to Collins. Nelson
 25 has offered little to no facts to support the stated objections. Thus, this boilerplate objection cannot be
 26 sustained.

27 Further, Nelson’s response that “No such documents exist” is suspect. Collins is an entity
 28 specializing in debt collections while Nelson is a law firm that specializes in debt collection lawsuits.

The two firms are frequently in contact as Collins regularly utilizes Nelson's services. It is inconceivable that Nelson does not expect to receive payment for its services. Finally, if Nelson is working on a contingency basis, the contingency fee contract must be in writing under California Business and Professions Code 6147.

Accordingly, Tourgeman requests that this Court order Nelson to provide a supplemental response to Request No. 11 without the stated objections, provide a substantive response, and produce any documents improperly withheld from production.

REQUEST FOR PRODUCTION NO. 12:

Please produce ALL DOCUMENTS pertaining to the number of alleged debtors that YOU filed complaints against from July 31, 2007 to the present.

RESPONSE TO REQUEST FOR PRODUCTION NO. 12:

Defendant objects to this Request on the grounds that it is overbroad, unduly burdensome and oppressive, and to the extent that it seeks information which is not relevant to the subject matter of this lawsuit, nor reasonably calculated to lead to the discovery of admissible evidence. Defendant does not concede that Plaintiff may pursue this action as a purported class action nor does Defendant concede that, even if class treatment were appropriate, that a class action is proper here, or that Plaintiff is a proper class representative with standing to pursue claims on behalf of a purported class. At best, the Request is premature.

REASONS TO COMPEL RESPONSE TO DOCUMENT REQUEST NO. 12:

Federal Rule of Civil Procedure 34(b)(2)(C) requires that "[a]n objection to part of a request must specify the part and permit inspection of the rest."; *see also E. & J. Gallo Winery v. Cantine Rallo, S.p.A.*, 2006 U.S. Dist. LEXIS 42069, *3-4 (E.D. Cal. 2006) ("If objection is made to part of an item or category, the part shall be specified and inspection permitted of the remaining parts. The party submitting the request may move for an order under Rule 37(a) with respect to any objection to or other failure to respond to the request or any part thereof, or any failure to permit inspection as requested."). In *E. & J. Gallo Winery*, the court ordered the defendant to provide supplemental responses because the defendant's original responses contained imprecise, boilerplate objections:

Defendant's responses do not allow for meaningful evaluation. Plaintiff and the Court are unable to determine, with certainty, the requests for

1 which Defendant is producing documents, the requests for which
2 Defendant is withholding documents and on what basis, and the requests
3 for which it has no responsive documents. Defendant cites boilerplate
4 general objections, and does not explain why the objection applies to the
5 response or whether documents were withheld pursuant to the stated
6 objections.

7 *Id.* at *4-5.

8 Nelson objects to Request No. 12 on the basis that it is “overbroad, unduly burdensome and
9 oppressive” and “not relevant to the subject matter of this lawsuit, nor reasonably calculated to lead to
10 the discovery of admissible evidence.” But Nelson fails to provide any explanation for these objections.
11 *Keith H. v. Long Beach Unified Sch. Dist.*, 228 F.R.D. 652, 655-56 (C.D. Cal. 2005) (“The party who
12 resists discovery has the burden to show discovery should not be allowed, and has the burden of
13 clarifying, explaining, and supporting its objections.”). Moreover, because Nelson’s response is so
14 broad and unspecific, it is impossible to tell whether documents are being withheld on the basis of the
15 stated objections, and/or whether responsive documents even exist. And, Nelson has not agreed to
16 produce any responsive documents.

17 Request No.12 is relevant and reasonably calculated to lead to the discovery of admissible
18 evidence. This Request seeks documents related to the number of alleged debtors that Nelson filed
19 complaints against and establishes the number of class members. Since this is a class action alleging
20 Nelson engages in improper debt collection practices, this Request is relevant and cannot be narrowed.

21 Accordingly, Tourgeman requests that this Court order Nelson to provide a supplemental
22 response to Request No. 12 without the stated objections, provide a substantive response, and produce
23 any documents improperly withheld from production.

24 **REQUEST FOR PRODUCTION NO. 13:**

25 Please produce ALL DOCUMENTS pertaining to the number of alleged debtors that YOU
26 mailed letters to requesting payment of an alleged debt from July 31, 2007 to the present.

27 **RESPONSE TO REQUEST FOR PRODUCTION NO. 13:**

28 Defendant objects to this Request on the grounds that it is overbroad, unduly burdensome and
oppressive, and the extent that it seeks information which is not relevant to the subject matter of this
lawsuit, nor reasonably calculated to lead to the discovery of admissible evidence. Nelson & Kennard

1 is a collection law firm with a number of clients. Letters sent by the firm to other debtors on behalf of
 2 other clients have no bearing on this case.

3 **REASONS TO COMPEL RESPONSE TO DOCUMENT REQUEST NO. 13:**

4 Federal Rule of Civil Procedure 34(b)(2)(C) requires that “[a]n objection to part of a request
 5 must specify the part and permit inspection of the rest.”; *see also E. & J. Gallo Winery v. Cantine Rallo,*
 6 *S.p.A.*, 2006 U.S. Dist. LEXIS 42069, *3-4 (E.D. Cal. 2006) (“If objection is made to part of an item or
 7 category, the part shall be specified and inspection permitted of the remaining parts. The party
 8 submitting the request may move for an order under Rule 37(a) with respect to any objection to or other
 9 failure to respond to the request or any part thereof, or any failure to permit inspection as requested.”).
 10 In *E. & J. Gallo Winery*, the court ordered the defendant to provide supplemental responses because the
 11 defendant’s original responses contained imprecise, boilerplate objections:

12 Defendant’s responses do not allow for meaningful evaluation. Plaintiff
 13 and the Court are unable to determine, with certainty, the requests for
 14 which Defendant is producing documents, the requests for which
 15 Defendant is withholding documents and on what basis, and the requests
 16 for which it has no responsive documents. Defendant cites boilerplate
 general objections, and does not explain why the objection applies to the
 response or whether documents were withheld pursuant to the stated
 objections.

16 *Id.* at *4-5.

17 Nelson objects to Request No. 13 on the basis that it is “overbroad, unduly burdensome and
 18 oppressive” and “not relevant to the subject matter of this lawsuit, nor reasonably calculated to lead to
 19 the discovery of admissible evidence.” But Nelson fails to provide any meaningful explanation for
 20 these objections. *Keith H. v. Long Beach Unified Sch. Dist.*, 228 F.R.D. 652, 655-56 (C.D. Cal. 2005)
 21 (“The party who resists discovery has the burden to show discovery should not be allowed, and has the
 22 burden of clarifying, explaining, and supporting its objections.”). Moreover, because Nelson’s response
 23 is so broad and unspecific, it is impossible to tell whether documents are being withheld on the basis of
 24 the stated objections, and/or whether responsive documents even exist. And, Nelson has not agreed to
 25 produce any responsive documents.

26 Nelson also claims that “[l]etters sent by the firm to other debtors on behalf of other clients have
 27 no bearing on this case.” The Complaint, however, contains class allegations that Nelson engages in
 28

1 improper debt collection activities. Indeed, the Complaint includes class allegations and a class
2 comprised of:

3 All consumers residing in the United States and abroad who, during the
4 period within one year of the date of the filing of the complaint, were
5 contacted or sued in the United States by either Collins Financial or Nelson
& Kennard in an effort to collect an alleged debt.

6 Further, the Complaint contains numerous allegations that Nelson improperly initiates
7 collections and unlawfully files lawsuits against debtors. In particular, the Complaint explicitly alleges
8 that Nelson “fails to take the time and effort to verify the alleged debts or ensure that the lawsuits it files
9 are legitimate and accurate.” ¶32. The Complaint also specifies that Nelson “attempts to quickly obtain
10 default judgments against consumers without having original or copies of original agreements to prove
11 the existence, terms, and amount of the debt, and in many cases without having proper information
12 regarding the location of the debtor, thus obtaining default judgments without effectuating proper
13 service.” ¶32. The Complaint also notes that “Nelson & Kennard rely on affidavits signed by
14 individuals who the collection law firms know have no knowledge of the underlying facts and file
15 verified complaints in which they attest to the truthfulness and accuracy of the information regarding
16 the alleged debt.” ¶35. In other words, regardless of whether the alleged creditor is Collins or the
17 alleged debtor is Tourgeman, Nelson does not verify information before it initiates collections and files
18 lawsuits. As such, Nelson’s entire debt collection practices are at issue.

19 Since Nelson’s debt collection practices as a whole are at issue, documents related to the number
20 of alleged debtors Nelson mailed letters to requesting payment of an alleged debt reveals the scope of
21 Nelson’s potentially improper debt collection practices. And, the number of alleged debtors who
22 received letters establishes the number of class members. Thus, Request No. 13 is relevant and cannot
23 be narrowed.

24 Accordingly, Tourgeman requests that this Court order Nelson to provide a supplemental
25 response to Request No. 13 without the stated objections, provide a substantive response, and produce
26 any documents improperly withheld from production.

REQUEST FOR PRODUCTION NO. 14:

Please produce ALL DOCUMENTS that RELATE TO YOUR 1692g notices, including but not limited to every sample collection letter YOU send to alleged debtors.

RESPONSE TO REQUEST FOR PRODUCTION NO. 14:

Defendant objects to this Request on the grounds that it is overbroad, unduly burdensome and oppressive, and to the extent that it seeks information which is not relevant to the subject matter of this lawsuit, nor reasonably calculated to lead to the discovery of admissible evidence. Nelson & Kennard is a collection law firm with a number of clients. There is no legitimate basis for requesting copies of section 1692g notices sent to other debtors in connection with representing other clients.

Subject to and without waiving the forgoing objection or the General Objections, Defendant will produce non-privileged documents that relate to Plaintiff, his account and the defenses in this action.

REASONS TO COMPEL RESPONSE TO DOCUMENT REQUEST NO. 14:

Federal Rule of Civil Procedure 34(b)(2)(C) requires that “[a]n objection to part of a request must specify the part and permit inspection of the rest.”; *see also E. & J. Gallo Winery v. Cantine Rallo, S.p.A.*, 2006 U.S. Dist. LEXIS 42069, *3-4 (E.D. Cal. 2006) (“If objection is made to part of an item or category, the part shall be specified and inspection permitted of the remaining parts. The party submitting the request may move for an order under Rule 37(a) with respect to any objection to or other failure to respond to the request or any part thereof, or any failure to permit inspection as requested.”). In *E. & J. Gallo Winery*, the court ordered the defendant to provide supplemental responses because the defendant’s original responses contained imprecise, boilerplate objections:

Defendant’s responses do not allow for meaningful evaluation. Plaintiff and the Court are unable to determine, with certainty, the requests for which Defendant is producing documents, the requests for which Defendant is withholding documents and on what basis, and the requests for which it has no responsive documents. Defendant cites boilerplate general objections, and does not explain why the objection applies to the response or whether documents were withheld pursuant to the stated objections.

Id. at *4-5.

Nelson objects to Request No. 14 on the basis that it is “overbroad, unduly burdensome and oppressive” and “not relevant to the subject matter of this lawsuit, nor reasonably calculated to lead to the discovery of admissible evidence.” But Nelson fails to provide any meaningful explanation for

1 these objections. *Keith H. v. Long Beach Unified Sch. Dist.*, 228 F.R.D. 652, 655-56 (C.D. Cal. 2005)
2 (“The party who resists discovery has the burden to show discovery should not be allowed, and has the
3 burden of clarifying, explaining, and supporting its objections.”). Moreover, because Nelson’s response
4 is so broad and unspecific, it is impossible to tell whether documents are being withheld on the basis of
5 the stated objections, and/or whether responsive documents even exist.

6 Nelson also claims that “[t]here is no legitimate basis for requesting copies of section 1692g
7 notices sent to other debtors in connection with representing clients.” Nelson is wrong. The Complaint
8 contains class allegations that Nelson engages in improper debt collection activities. Indeed, the
9 Complaint includes class allegations and a class comprised of:

10 All consumers residing in the United States and abroad who, during the
11 period within one year of the date of the filing of the complaint, were
12 contacted or sued in the United States by either Collins Financial or Nelson
& Kennard in an effort to collect an alleged debt.

13 Further, the Complaint contains numerous allegations that Nelson improperly initiates
14 collections and unlawfully files lawsuits against debtors. In particular, the Complaint explicitly alleges
15 that Nelson “fails to take the time and effort to verify the alleged debts or ensure that the lawsuits it files
16 are legitimate and accurate.” ¶32. The Complaint also specifies that Nelson “attempts to quickly obtain
17 default judgments against consumers without having original or copies of original agreements to prove
18 the existence, terms, and amount of the debt, and in many cases without having proper information
19 regarding the location of the debtor, thus obtaining default judgments without effectuating proper
20 service.” ¶32. The Complaint also notes that “Nelson & Kennard rely on affidavits signed by
21 individuals who the collection law firms know have no knowledge of the underlying facts and file
22 verified complaints in which they attest to the truthfulness and accuracy of the information regarding
23 the alleged debt.” ¶35. In other words, regardless of whether the alleged creditor is Collins or the
24 alleged debtor is Tourgeman, Nelson does not verify information before it initiates collections and files
25 lawsuits. As such, Nelson’s entire debt collection practices are at issue.

26 Since Nelson’s debt collection practices as a whole are at issue, documents related to 1692g
27 notices that Nelson sent to alleged debtors demonstrates Nelson’s overall debt collection techniques.

1 This Request seeks evidence which goes to the heart of this dispute: whether Nelson engages in proper
2 debt collection practices. Thus, Request No. 14 is relevant and cannot be narrowed.

3 Additionally, Nelson cannot satisfy its discovery obligations merely by producing the 1692g
4 letter sent to Tourgeman. Rather, Nelson must produce all documents that relate to the 1692g notices it
5 sent to alleged debtors during the class period.

6 Accordingly, Tourgeman requests that this Court order Nelson to provide a supplemental
7 response to Request No. 14 without the stated objections, provide a substantive response, and produce
8 any documents improperly withheld from production.

9 **REQUEST FOR PRODUCTION NO. 15:**

10 Please produce ALL DOCUMENTS RELATING TO the procedures and guidelines YOU sent
11 to collect debts.

12 **RESPONSE TO REQUEST FOR PRODUCTION NO. 15:**

13 Defendant objects to this Request on the grounds that it is vague and ambiguous as to the term
14 “procedures and guidelines.” Defendant objects to this Request on the grounds that, as understood by
15 Defendant, it is overbroad, unduly burdensome and oppressive, and to the extent that it seeks
16 information which is not relevant to the subject matter of this lawsuit, nor reasonably calculated to lead
17 to the discovery of admissible evidence. Nelson & Kennard is a collection law firm, and virtually every
18 piece of paper or electronic document it maintains could arguably “relate” to the collection process and
19 could be construed as responsive.

20 Subject to and without waiving the forgoing objections or the General Objections, upon entry of
21 a protective order by the Court, Defendant will produce non-privileged documents that relate to
22 Plaintiff, his account, and the defenses in this action.

23 **REASONS TO COMPEL RESPONSE TO DOCUMENT REQUEST NO. 15:**

24 Federal Rule of Civil Procedure 34(b)(2)(C) requires that “[a]n objection to part of a request
25 must specify the part and permit inspection of the rest.”; *see also E. & J. Gallo Winery v. Cantine Rallo,*
26 *S.p.A.*, 2006 U.S. Dist. LEXIS 42069, *3-4 (E.D. Cal. 2006) (“If objection is made to part of an item or
27 category, the part shall be specified and inspection permitted of the remaining parts. The party
28 submitting the request may move for an order under Rule 37(a) with respect to any objection to or other

1 failure to respond to the request or any part thereof, or any failure to permit inspection as requested.”).

2 In *E. & J. Gallo Winery*, the court ordered the defendant to provide supplemental responses because the

3 defendant’s original responses contained imprecise, boilerplate objections:

4 Defendant’s responses do not allow for meaningful evaluation. Plaintiff

5 and the Court are unable to determine, with certainty, the requests for

6 which Defendant is producing documents, the requests for which

7 Defendant is withholding documents and on what basis, and the requests

8 for which it has no responsive documents. Defendant cites boilerplate

general objections, and does not explain why the objection applies to the

response or whether documents were withheld pursuant to the stated

objections.

8 *Id.* at *4-5.

9 Nelson objects to Request No. 15 on the basis that it is “overbroad, unduly burdensome and

10 oppressive” and “not relevant to the subject matter of this lawsuit, nor reasonably calculated to lead to

11 the discovery of admissible evidence.” But Nelson fails to provide any meaningful explanation for

12 these objections. *Keith H. v. Long Beach Unified Sch. Dist.*, 228 F.R.D. 652, 655-56 (C.D. Cal. 2005)

13 (“The party who resists discovery has the burden to show discovery should not be allowed, and has the

14 burden of clarifying, explaining, and supporting its objections.”). Moreover, because Nelson’s response

15 is so broad and unspecific, it is impossible to tell whether documents are being withheld on the basis of

16 the stated objections, and/or whether responsive documents even exist.

17 Nelson objects to document Request No. 15 on the basis that the term “procedures and

18 guidelines” is vague and ambiguous. Nelson, however, has failed to exercise reason and common sense

19 to attribute ordinary definitions to terms and phrases utilized in discovery. *Santana Row Hotel*

20 *Partners, L.P. v. Zurich Am. Ins. Co.*, 2007 U.S. Dist. LEXIS 31688 (N.D. Cal. 2007). “Procedures”

21 and “policies” are common English words that should not preclude Nelson from providing a substantive

22 response. And, Nelson has offered little to no meaningful facts to support the stated objections. Thus,

23 this boilerplate objection cannot be sustained.

24 Nelson also claims that this Request potentially seeks “virtually every piece of paper or

25 electronic document it maintains.” Not true. This Request only seeks documents related to Nelson’s

26 procedures and guidelines for collecting debts.

27

28

1 Finally, Nelson's offer to produce only documents related to Tourgeman, his account, and the
 2 defenses in this action narrows the scope of the Request and is insufficient. This is a class action
 3 lawsuit alleging Nelson improperly initiated debt collections and unlawfully filed lawsuits against
 4 numerous debtors. Since Nelson's debt collection procedures and guidelines may show the extent of
 5 Nelson's debt collection practices, these documents are relevant and must be produced.

6 Accordingly, Tourgeman requests that this Court order Nelson to provide a supplemental
 7 response to Request No. 15 without the stated objections, provide a substantive response, and produce
 8 any documents improperly withheld from production.

9 **REQUEST FOR PRODUCTION NO. 17:**

10 Please produce ALL DOCUMENTS that RELATE TO YOUR policy for the retention and
 11 destruction of records, DOCUMENTS, or files from July 31, 2007 to the present.

12 **RESPONSE TO REQUEST FOR PRODUCTION NO. 17:**

13 Defendant objects to this Request on the grounds that is overbroad, unduly burdensome and
 14 oppressive, and seeks information which is not relevant to the subject matter of this lawsuit, nor
 15 reasonably calculated to lead to the discovery of admissible evidence.

16 Subject to and without waving the forgoing objections or the General Objections, Defendant will
 17 produce non-privileged documents in its possession, custody or control, to the extent any exist, that are
 18 responsive to this Request.

19 **REASONS TO COMPEL RESPONSE TO DOCUMENT REQUEST NO. 17:**

20 Federal Rule of Civil Procedure 34(b)(2)(C) requires that "[a]n objection to part of a request
 21 must specify the part and permit inspection of the rest."; *see also E. & J. Gallo Winery v. Cantine Rallo,*
 22 *S.p.A.*, 2006 U.S. Dist. LEXIS 42069, *3-4 (E.D. Cal. 2006) ("If objection is made to part of an item or
 23 category, the part shall be specified and inspection permitted of the remaining parts. The party
 24 submitting the request may move for an order under Rule 37(a) with respect to any objection to or other
 25 failure to respond to the request or any part thereof, or any failure to permit inspection as requested.").
 26 In *E. & J. Gallo Winery*, the court ordered the defendant to provide supplemental responses because the
 27 defendant's original responses contained imprecise, boilerplate objections:

28 Defendant's responses do not allow for meaningful evaluation. Plaintiff
 and the Court are unable to determine, with certainty, the requests for

which Defendant is producing documents, the requests for which Defendant is withholding documents and on what basis, and the requests for which it has no responsive documents. Defendant cites boilerplate general objections, and does not explain why the objection applies to the response or whether documents were withheld pursuant to the stated objections.

Id. at *4-5.

Nelson objects to Request No. 17 on the basis that it is “overbroad, unduly burdensome and oppressive” and “not relevant to the subject matter of this lawsuit, nor reasonably calculated to lead to the discovery of admissible evidence.” But Nelson fails to provide any explanation for these objections. *Keith H. v. Long Beach Unified Sch. Dist.*, 228 F.R.D. 652, 655-56 (C.D. Cal. 2005) (“The party who resists discovery has the burden to show discovery should not be allowed, and has the burden of clarifying, explaining, and supporting its objections.”). Moreover, because Nelson’s response is so broad and unspecific, it is impossible to tell whether documents are being withheld on the basis of the stated objections, and/or whether responsive documents even exist.

Accordingly, Tourgeman requests that this Court order Nelson to provide a supplemental response to Request No. 17 without the stated objections, provide a substantive response, and produce any documents improperly withheld from production.

REQUEST FOR PRODUCTION NO. 19:

Please produce ALL DOCUMENTS relating to the maintenance of procedures by NELSON adopted to avoid any violation of the Fair Debt Collection Practices Act and the Rosenthal Act.

RESPONSE TO REQUEST FOR PRODUCTION NO. 19:

Defendant objects to this Request on the grounds that it is overbroad, unduly burdensome and oppressive, and to the extent that it seeks information which is not relevant to the subject matter of this lawsuit, nor reasonably calculated to lead to the discovery of admissible evidence.

Subject to and without waiving the forgoing objections or the General Objections, upon entry of a protective order by the Court, Defendant will produce non-privileged documents that relate to the bona fide error defense in this action.

REASONS TO COMPEL RESPONSE TO DOCUMENT REQUEST NO. 19:

Federal Rule of Civil Procedure 34(b)(2)(C) requires that “[a]n objection to part of a request must specify the part and permit inspection of the rest.”; *see also E. & J. Gallo Winery v. Cantine Rallo*,

1 *S.p.A.*, 2006 U.S. Dist. LEXIS 42069, *3-4 (E.D. Cal. 2006) (“If objection is made to part of an item or
2 category, the part shall be specified and inspection permitted of the remaining parts. The party
3 submitting the request may move for an order under Rule 37(a) with respect to any objection to or other
4 failure to respond to the request or any part thereof, or any failure to permit inspection as requested.”).
5 In *E. & J. Gallo Winery*, the court ordered the defendant to provide supplemental responses because the
6 defendant’s original responses contained imprecise, boilerplate objections:

7 Defendant’s responses do not allow for meaningful evaluation. Plaintiff
8 and the Court are unable to determine, with certainty, the requests for
9 which Defendant is producing documents, the requests for which
10 Defendant is withholding documents and on what basis, and the requests
11 for which it has no responsive documents. Defendant cites boilerplate
general objections, and does not explain why the objection applies to the
response or whether documents were withheld pursuant to the stated
objections.

11 *Id.* at *4-5.

12 Nelson objects to Request No. 19 on the basis that it is “overbroad, unduly burdensome and
13 oppressive” and “not relevant to the subject matter of this lawsuit, nor reasonably calculated to lead to
14 the discovery of admissible evidence.” But Nelson fails to provide any explanation for these objections.
15 *Keith H. v. Long Beach Unified Sch. Dist.*, 228 F.R.D. 652, 655-56 (C.D. Cal. 2005) (“The party who
16 resists discovery has the burden to show discovery should not be allowed, and has the burden of
17 clarifying, explaining, and supporting its objections.”). Moreover, because Nelson’s response is so
18 broad and unspecific, it is impossible to tell whether documents are being withheld on the basis of the
19 stated objections, and/or whether responsive documents even exist.

20 Nelson also improperly attempts to limit Request No. 19 to documents that also relate to the
21 bona fide error defense. This response is insufficient and does not satisfy Nelson’s discovery
22 obligations. Request No. 19 seeks documents related to Nelson’s policies for avoiding violations of the
23 Fair Debt Collection Practices Act and the Rosenthal Act. Put differently, this Request seeks
24 information on how Nelson trains its employees to collect debts and is not limited to just the bona fide
25 error defense. Nelson cannot shelter its debt collection techniques from scrutiny by producing only
26 documents related to the bona fide error defense.

Accordingly, Tourgeman requests that this Court order Nelson to provide a supplemental response to Request No. 19 without the stated objections, provide a substantive response, and produce any documents improperly withheld from production.

REQUEST FOR PRODUCTION NO. 20:

Please produce ALL material, including video and audio tapes, pertaining to training by or for NELSON and its employees regarding the Fair Debt Collection Practices Act and the Rosenthal Act.

RESPONSE TO REQUEST FOR PRODUCTION NO. 20:

Defendant objects to this Request on the grounds that it is overbroad, unduly burdensome and oppressive, and to the extent that it seeks information which is not relevant to the subject matter of this lawsuit, nor reasonably calculated to lead to the discovery of admissible evidence.

Subject to and without waiving the forgoing objections or the General Objections, upon entry of a protective order by the Court, Defendant will produce non-privileged documents that relate to the bona fide error defense in this action.

REASONS TO COMPEL RESPONSE TO DOCUMENT REQUEST NO. 20:

Federal Rule of Civil Procedure 34(b)(2)(C) requires that “[a]n objection to part of a request must specify the part and permit inspection of the rest.”; *see also E. & J. Gallo Winery v. Cantine Rallo, S.p.A.*, 2006 U.S. Dist. LEXIS 42069, *3-4 (E.D. Cal. 2006) (“If objection is made to part of an item or category, the part shall be specified and inspection permitted of the remaining parts. The party submitting the request may move for an order under Rule 37(a) with respect to any objection to or other failure to respond to the request or any part thereof, or any failure to permit inspection as requested.”). In *E. & J. Gallo Winery*, the court ordered the defendant to provide supplemental responses because the defendant’s original responses contained imprecise, boilerplate objections:

Defendant’s responses do not allow for meaningful evaluation. Plaintiff and the Court are unable to determine, with certainty, the requests for which Defendant is producing documents, the requests for which Defendant is withholding documents and on what basis, and the requests for which it has no responsive documents. Defendant cites boilerplate general objections, and does not explain why the objection applies to the response or whether documents were withheld pursuant to the stated objections.

Id. at *4-5.

Nelson objects to Request No. **20** on the basis that it is “overbroad, unduly burdensome and oppressive” and “not relevant to the subject matter of this lawsuit, nor reasonably calculated to lead to the discovery of admissible evidence.” But Nelson fails to provide any explanation for these objections. *Keith H. v. Long Beach Unified Sch. Dist.*, 228 F.R.D. 652, 655-56 (C.D. Cal. 2005) (“The party who resists discovery has the burden to show discovery should not be allowed, and has the burden of clarifying, explaining, and supporting its objections.”). Moreover, because Nelson’s response is so broad and unspecific, it is impossible to tell whether documents are being withheld on the basis of the stated objections, and/or whether responsive documents even exist.

Nelson also improperly attempts to limit Request No. **20** to documents that relate to the bona fide error defense. This response is insufficient and does not satisfy Nelson’s discovery obligations. Request No. **20** seeks training materials regarding the Fair Debt Collection Practices Act and the Rosenthal Act. In other words, this Request seeks information on how Nelson trains its employees to collect debts and is not limited to just the bona fide error defense. Nelson cannot shelter its debt collection techniques from scrutiny by producing only documents related to the bona fide error defense.

Accordingly, Tourgeman requests that this Court order Nelson to provide a supplemental response to Request No. **20** without the stated objections, provide a substantive response, and produce any documents improperly withheld from production.

REQUEST FOR PRODUCTION NO. 21:

Please produce ALL DOCUMENTS RELATING TO insurance policies covering NELSON for violation of the Fair Debt Collection Practices Act and the Rosenthal Act.

RESPONSE TO REQUEST FOR PRODUCTION NO. 21:

Defendant objects to this Request on the grounds that it is overbroad, unduly burdensome and oppressive, and to the extent that it seeks information which is not relevant to the subject matter of this lawsuit, nor reasonably calculated to lead to the discovery of admissible evidence. Nelson & Kennard has not tendered the defense of this action to any insurance carrier so there are no relevant responsive documents.

REASONS TO COMPEL RESPONSE TO DOCUMENT REQUEST NO. 21:

Federal Rule of Civil Procedure 34(b)(2)(C) requires that “[a]n objection to part of a request must specify the part and permit inspection of the rest.”; *see also E. & J. Gallo Winery v. Cantine Rallo, S.p.A.*, 2006 U.S. Dist. LEXIS 42069, *3-4 (E.D. Cal. 2006) (“If objection is made to part of an item or category, the part shall be specified and inspection permitted of the remaining parts. The party submitting the request may move for an order under Rule 37(a) with respect to any objection to or other failure to respond to the request or any part thereof, or any failure to permit inspection as requested.”). In *E. & J. Gallo Winery*, the court ordered the defendant to provide supplemental responses because the defendant’s original responses contained imprecise, boilerplate objections:

Defendant’s responses do not allow for meaningful evaluation. Plaintiff and the Court are unable to determine, with certainty, the requests for which Defendant is producing documents, the requests for which Defendant is withholding documents and on what basis, and the requests for which it has no responsive documents. Defendant cites boilerplate general objections, and does not explain why the objection applies to the response or whether documents were withheld pursuant to the stated objections.

Id. at *4-5.

Nelson objects to Request No. 21 on the basis that it is “overbroad, unduly burdensome and oppressive” and “not relevant to the subject matter of this lawsuit, nor reasonably calculated to lead to the discovery of admissible evidence.” But Nelson fails to provide any explanation for these objections. *Keith H. v. Long Beach Unified Sch. Dist.*, 228 F.R.D. 652, 655-56 (C.D. Cal. 2005) (“The party who resists discovery has the burden to show discovery should not be allowed, and has the burden of clarifying, explaining, and supporting its objections.”). Moreover, because Nelson’s response is so broad and unspecific, it is impossible to tell whether documents are being withheld on the basis of the stated objections, and/or whether responsive documents even exist. And, Nelson has not agreed to provide any responsive documents.

Nelson also refuses to produce documents to Request No. 21, contending Nelson “has not tendered the defense of this action to any insurance carrier so there are no relevant responsive documents.” But it is immaterial whether Nelson has tendered the defense of this action to any insurance carrier. The crux of the Complaint is that Nelson violated the Fair Debt Collection Practices Act. Documents that establish culpability or relate to indemnification for those violations are relevant.

1 If Nelson maintains an insurance policy that covers these violations, this is enough to render the
2 documents relevant.

3 Accordingly, Tourgeman requests that this Court order Nelson to provide a supplemental
4 response to Request No. 21 without the stated objections, provide a substantive response, and produce
5 any documents improperly withheld from production.

6 **REQUEST FOR PRODUCTION NO. 23:**

7 Please produce ALL DOCUMENTS that RELATE TO NELSON's procedures to verify alleged
8 debts when received from a debt collector client, including but not limited to, COLLINS.

9 **RESPONSE TO REQUEST FOR PRODUCTION NO. 23:**

10 Defendant objects to this Request on the grounds that it is vague and ambiguous as to the terms
11 "verify alleged debts." Nelson & Kennard is a collection law firm. To the extent that it understands the
12 term "verify" as used in this Request, the firm does not have a legal obligation to independently verify
13 the debts that are forwarded by its clients. Defendant also objects to this Request on the grounds that it
14 is overbroad, unduly burdensome and oppressive, and to the extent that it seeks information which is
15 not relevant to the subject matter of this lawsuit, nor reasonably calculated to lead to the discovery of
16 admissible evidence. Nelson & Kennard has a number of clients. There is no legitimate basis for
17 seeking discovery concerning the handling of accounts forwarded by other clients of the firm.

18 Subject to and without waiving the forgoing objections or the General Objections, upon entry of
19 a protective order by the Court, Defendant will produce non-privileged documents that relate to
20 Plaintiff, his account, and the defenses in this action.

21 **REASONS TO COMPEL RESPONSE TO DOCUMENT REQUEST NO. 23:**

22 Federal Rule of Civil Procedure 34(b)(2)(C) requires that "[a]n objection to part of a request
23 must specify the part and permit inspection of the rest."; *see also E. & J. Gallo Winery v. Cantine Rallo,*
24 *S.p.A.*, 2006 U.S. Dist. LEXIS 42069, *3-4 (E.D. Cal. 2006) ("If objection is made to part of an item or
25 category, the part shall be specified and inspection permitted of the remaining parts. The party
26 submitting the request may move for an order under Rule 37(a) with respect to any objection to or other
27 failure to respond to the request or any part thereof, or any failure to permit inspection as requested.").

1 In *E. & J. Gallo Winery*, the court ordered the defendant to provide supplemental responses because the
2 defendant's original responses contained imprecise, boilerplate objections:

3 Defendant's responses do not allow for meaningful evaluation. Plaintiff
4 and the Court are unable to determine, with certainty, the requests for
5 which Defendant is producing documents, the requests for which
6 Defendant is withholding documents and on what basis, and the requests
7 for which it has no responsive documents. Defendant cites boilerplate
8 general objections, and does not explain why the objection applies to the
9 response or whether documents were withheld pursuant to the stated
10 objections.

11 *Id.* at *4-5.

12 Nelson objects to Request No. 23 on the basis that it is "overbroad, unduly burdensome and
13 oppressive" and "not relevant to the subject matter of this lawsuit, nor reasonably calculated to lead to
14 the discovery of admissible evidence." But Nelson fails to provide any meaningful explanation for
15 these objections. *Keith H. v. Long Beach Unified Sch. Dist.*, 228 F.R.D. 652, 655-56 (C.D. Cal. 2005)
16 ("The party who resists discovery has the burden to show discovery should not be allowed, and has the
17 burden of clarifying, explaining, and supporting its objections."). Moreover, because Nelson's response
18 is so broad and unspecific, it is impossible to tell whether documents are being withheld on the basis of
19 the stated objections, and/or whether responsive documents even exist.

20 Nelson objects to document Request No. 23 on the basis that the term "verify" is vague and
21 ambiguous. Nelson, however, has failed to exercise reason and common sense to attribute ordinary
22 definitions to terms and phrases utilized in discovery. *Santana Row Hotel Partners, L.P. v. Zurich Am.*
23 *Ins. Co.*, 2007 U.S. Dist. LEXIS 31688 (N.D. Cal. 2007). The term "verify" is a common English word
24 that should not preclude Nelson from providing a meaningful response. Because Nelson has offered
25 little to no meaningful facts to support the stated objection, this boilerplate objection cannot be
26 sustained.

27 Nelson also contends there is no legitimate basis for Request No. 23 and offers to produce only
28 documents related to Tourgeman, his account, and the defenses in this action. The Complaint, however,
contains class allegations that Nelson engages in improper debt collection activities. Indeed, the
Complaint includes class allegations and a class comprised of:

All consumers residing in the United States and abroad who, during the
period within one year of the date of the filing of the complaint, were

1 contacted or sued in the United States by either Collins Financial or Nelson
2 & Kennard in an effort to collect an alleged debt.

3 Further, the Complaint contains numerous allegations that Nelson improperly initiates
4 collections and unlawfully files lawsuits against debtors. In particular, the Complaint explicitly alleges
5 that Nelson “fails to take the time and effort to verify the alleged debts or ensure that the lawsuits it files
6 are legitimate and accurate.” ¶32. The Complaint also specifies that Nelson “attempts to quickly obtain
7 default judgments against consumers without having original or copies of original agreements to prove
8 the existence, terms, and amount of the debt, and in many cases without having proper information
9 regarding the location of the debtor, thus obtaining default judgments without effectuating proper
10 service.” ¶32. The Complaint also notes that “Nelson & Kennard rely on affidavits signed by
11 individuals who the collection law firms know have no knowledge of the underlying facts and file
12 verified complaints in which they attest to the truthfulness and accuracy of the information regarding
13 the alleged debt.” ¶35. In other words, regardless of whether the alleged creditor is Collins or the
14 alleged debtor is Tourgeman, Nelson does not verify information before it initiates collections and files
15 lawsuits. As such, Nelson’s entire debt collection practices are at issue.

16 Request No. 23 seeks documents related to Nelson’s procedures for verifying alleged debts
17 received from debt collector clients. Since Nelson’s debt collection practices are in question, this
18 Request is relevant to showing the process by which Nelson files debt related lawsuits and whether
19 Nelson takes the time to ensure the alleged debts are legitimate.

20 Accordingly, Tourgeman requests that this Court order Nelson to provide a supplemental
21 response to Request No. 23 without the stated objections, provide a substantive response, and produce
22 any documents improperly withheld from production.

23 **REQUEST FOR PRODUCTION NO. 25:**

24 Please produce ALL DOCUMENTS that RELATE TO NELSON’s policies and procedures for
25 settling alleged debts with debtors.

26 **RESPONSE TO REQUEST FOR PRODUCTION NO. 25:**

27 Defendant objects to this Request on the grounds that it is vague and ambiguous as to the terms
28 “policies and procedures for settling.” Defendant also objects to this Request on the grounds that it is
overbroad, unduly burdensome and oppressive, and to the extent that it seeks information which is not

relevant to the subject matter of this lawsuit, nor reasonably calculated to lead to the discovery of admissible evidence. Nelson & Kennard is a collection law firm with a number of different clients. Cases are settled on an individual basis depending on the facts and circumstances that are present at the time the settlement is consummated. There is no legitimate basis for seeking discovery regarding the settlement of debts that are forwarded to the firm by other clients.

REASONS TO COMPEL RESPONSE TO DOCUMENT REQUEST NO. 25:

Federal Rule of Civil Procedure 34(b)(2)(C) requires that “[a]n objection to part of a request must specify the part and permit inspection of the rest.”; *see also E. & J. Gallo Winery v. Cantine Rallo, S.p.A.*, 2006 U.S. Dist. LEXIS 42069, *3-4 (E.D. Cal. 2006) (“If objection is made to part of an item or category, the part shall be specified and inspection permitted of the remaining parts. The party submitting the request may move for an order under Rule 37(a) with respect to any objection to or other failure to respond to the request or any part thereof, or any failure to permit inspection as requested.”). In *E. & J. Gallo Winery*, the court ordered the defendant to provide supplemental responses because the defendant’s original responses contained imprecise, boilerplate objections:

Defendant’s responses do not allow for meaningful evaluation. Plaintiff and the Court are unable to determine, with certainty, the requests for which Defendant is producing documents, the requests for which Defendant is withholding documents and on what basis, and the requests for which it has no responsive documents. Defendant cites boilerplate general objections, and does not explain why the objection applies to the response or whether documents were withheld pursuant to the stated objections.

Id. at *4-5.

Nelson objects to Request No. 25 on the basis that it is “overbroad, unduly burdensome and oppressive” and “not relevant to the subject matter of this lawsuit, nor reasonably calculated to lead to the discovery of admissible evidence.” But Nelson fails to provide any meaningful explanation for these objections. *Keith H. v. Long Beach Unified Sch. Dist.*, 228 F.R.D. 652, 655-56 (C.D. Cal. 2005) (“The party who resists discovery has the burden to show discovery should not be allowed, and has the burden of clarifying, explaining, and supporting its objections.”). Moreover, because Nelson’s response is so broad and unspecific, it is impossible to tell whether documents are being withheld on the basis of the stated objections, and/or whether responsive documents even exist. And, Nelson has not agreed to produce any responsive documents.

1 Nelson objects to document Request No. 25 on the basis that the term “policies and procedures
2 for settling” is vague and ambiguous. Nelson, however, has failed to exercise reason and common
3 sense to attribute ordinary definitions to terms and phrases utilized in discovery. *Santana Row Hotel*
4 *Partners, L.P. v. Zurich Am. Ins. Co.*, 2007 U.S. Dist. LEXIS 31688 (N.D. Cal. 2007). “Policies” and
5 “procedures” are common English words that should not preclude Nelson from providing a substantive
6 response. Because Nelson has offered little to no meaningful facts to support the stated objection, this
7 boilerplate objection cannot be sustained.

8 Nelson also contends “[t]here is no legitimate basis for seeking discovery regarding the
9 settlement of debts that are forwarded to the firm by other clients.” Nelson is wrong. The Complaint
10 contains class allegations that Nelson engages in improper debt collection activities. Indeed, the
11 Complaint includes class allegations and a class comprised of:

12 All consumers residing in the United States and abroad who, during the
13 period within one year of the date of the filing of the complaint, were
14 contacted or sued in the United States by either Collins Financial or Nelson
& Kennard in an effort to collect an alleged debt.

15 Further, the Complaint contains numerous allegations that Nelson improperly initiates
16 collections and unlawfully files lawsuits against debtors. In particular, the Complaint explicitly alleges
17 that Nelson “fails to take the time and effort to verify the alleged debts or ensure that the lawsuits it files
18 are legitimate and accurate.” ¶32. The Complaint also specifies that Nelson “attempts to quickly obtain
19 default judgments against consumers without having original or copies of original agreements to prove
20 the existence, terms, and amount of the debt, and in many cases without having proper information
21 regarding the location of the debtor, thus obtaining default judgments without effectuating proper
22 service.” ¶32. The Complaint also notes that “Nelson & Kennard rely on affidavits signed by
23 individuals who the collection law firms know have no knowledge of the underlying facts and file
24 verified complaints in which they attest to the truthfulness and accuracy of the information regarding
25 the alleged debt.” ¶35. In other words, regardless of whether the alleged creditor is Collins or the
26 alleged debtor is Tourgeman, Nelson does not verify information before it initiates collections and files
27 lawsuits. As such, Nelson’s entire debt collection practices are at issue.

Request No. **25** seeks documents related to Nelson's policies and procedures for settling alleged debts with debtors. The manner in which Nelson settles alleged debts with debtors reflects on its debt collection practices. Since Nelson's debt collection practices are in question, this Request is relevant and goes to the heart of this case.

Accordingly, Tourgeman requests that this Court order Nelson to provide a supplemental response to Request No. **25** without the stated objections, provide a substantive response, and produce any documents improperly withheld from production.

REQUEST FOR PRODUCTION NO. 26:

Please produce ALL DOCUMENTS that RELATE TO NELSON's revenue for each calendar year from 2005 to the present, including but not limited to financial summaries, period reports, tax returns and financial statements.

RESPONSE TO REQUEST FOR PRODUCTION NO. 26:

Defendant objects to this Request on the grounds that it is overbroad, unduly burdensome and oppressive, and to the extent that it seeks information which is not relevant to the subject matter of this lawsuit, nor reasonably calculated to lead to the discovery of admissible evidence. Defendant further objects to this Request to the extent that it seeks confidential financial information.

REASONS TO COMPEL RESPONSE TO DOCUMENT REQUEST NO. 26:

Federal Rule of Civil Procedure 34(b)(2)(C) requires that "[a]n objection to part of a request must specify the part and permit inspection of the rest."; *see also E. & J. Gallo Winery v. Cantine Rallo, S.p.A.*, 2006 U.S. Dist. LEXIS 42069, *3-4 (E.D. Cal. 2006) ("If objection is made to part of an item or category, the part shall be specified and inspection permitted of the remaining parts. The party submitting the request may move for an order under Rule 37(a) with respect to any objection to or other failure to respond to the request or any part thereof, or any failure to permit inspection as requested."). In *E. & J. Gallo Winery*, the court ordered the defendant to provide supplemental responses because the defendant's original responses contained imprecise, boilerplate objections:

Defendant's responses do not allow for meaningful evaluation. Plaintiff and the Court are unable to determine, with certainty, the requests for which Defendant is producing documents, the requests for which Defendant is withholding documents and on what basis, and the requests for which it has no responsive documents. Defendant cites boilerplate general objections, and does not explain why the objection applies to the

1 response or whether documents were withheld pursuant to the stated
2 objections.

3 *Id.* at *4-5.

4 Nelson objects to Request No. 26 on the basis that it is “overbroad, unduly burdensome and
5 oppressive” and “not relevant to the subject matter of this lawsuit, nor reasonably calculated to lead to
6 the discovery of admissible evidence.” But Nelson fails to provide any explanation for these objections.
7 *Keith H. v. Long Beach Unified Sch. Dist.*, 228 F.R.D. 652, 655-56 (C.D. Cal. 2005) (“The party who
8 resists discovery has the burden to show discovery should not be allowed, and has the burden of
9 clarifying, explaining, and supporting its objections.”). Moreover, because Nelson’s response is so
10 broad and unspecific, it is impossible to tell whether documents are being withheld on the basis of the
11 stated objections, and/or whether responsive documents even exist. And, Nelson has not agreed to
12 produce any responsive documents.

13 Documents related to Nelson’s revenues establish how debt collection activities were conducted
14 and how Nelson was incentivized to pursue certain alleged debtors. To the extent Nelson contends this
15 Request seeks confidential information, Tourgeman has offered to sign a protective order. Nelson
16 ignored this offer.

17 Accordingly, Tourgeman requests that this Court order Nelson to provide a supplemental
18 response to Request No. 26 without the stated objections, provide a substantive response, and produce
19 any documents improperly withheld from production.

20 **REQUEST FOR PRODUCTION NO. 28:**

21 Please produce ALL DOCUMENTS that RELATE TO NELSON’s processes for receiving the
22 transmitted account information of debtors from COLLINS.

23 **RESPONSE TO REQUEST FOR PRODUCTION NO. 28:**

24 Defendant objects to this Request on the grounds that it is vague and ambiguous as to the term
25 “processes for receiving the transmitted account information of debtors.” As Defendant understands the
26 Request, there are no responsive documents.

27 **REASONS TO COMPEL RESPONSE TO DOCUMENT REQUEST NO. 28:**

28 Nelson objects to document Request No. 28 on the basis that the term “processes for receiving
the transmitted account information of debtors” is vague and ambiguous. Nelson, however, has failed

1 to exercise reason and common sense to attribute ordinary definitions to terms and phrases utilized in
 2 discovery. *Santana Row Hotel Partners, L.P. v. Zurich Am. Ins. Co.*, 2007 U.S. Dist. LEXIS 31688
 3 (N.D. Cal. 2007). Because Nelson has offered little to no meaningful facts to support the stated
 4 objection, this boilerplate objection cannot be sustained.

5 Finally, Nelson's contention that no responsive documents exist is dubious. Collins is an entity
 6 specializing in debt collections while Nelson is a law firm that specializes in debt collection lawsuits.
 7 The two firms are frequently in contact as Collins regularly utilizes Nelson's services and transmits
 8 debtor account information. It is unlikely that Nelson has no documentation showing how it processes
 9 account information sent by Collins.

10 Accordingly, Tourgeman requests that this Court order Nelson to provide a supplemental
 11 response to Request No. 28 without the stated objections, provide a substantive response, and produce
 12 any documents improperly withheld from production.

13 **REQUEST FOR PRODUCTION NO. 29:**

14 Please produce ALL DOCUMENTS that RELATE TO NELSON's contracts with skip-tracing
 15 services and other data providers YOU use to find current information or any alleged debtor.

16 **RESPONSE TO REQUEST FOR PRODUCTION NO. 29:**

17 Defendant objects to this Request on the grounds that it is overbroad, unduly burdensome and
 18 oppressive, and to the extent that it seeks information which is not relevant to the subject matter of this
 19 lawsuit, nor reasonably calculated to lead to the discovery of admissible evidence.

20 **SUPPLEMENTAL RESPONSE TO DOCUMENT REQUEST NO. 29:**

21 Defendant also objects to this Request on the grounds that it is overbroad, unduly burdensome
 22 and oppressive, and to the extent that it seeks information which is not relevant to the subject matter of
 23 this lawsuit, nor reasonably calculated to lead to the discovery of admissible evidence. Subject to and
 24 without waiving the forgoing objections or the General Objections, Defendant responds as follows:
 25 "Defendant will produce responsive documents."

26 **REASONS TO COMPEL RESPONSE TO DOCUMENT REQUEST NO. 29:**

27 Federal Rule of Civil Procedure 34(b)(2)(C) requires that "[a]n objection to part of a request
 28 must specify the part and permit inspection of the rest."; *see also E. & J. Gallo Winery v. Cantine Rallo*,

1 *S.p.A.*, 2006 U.S. Dist. LEXIS 42069, *3-4 (E.D. Cal. 2006) (“If objection is made to part of an item or
 2 category, the part shall be specified and inspection permitted of the remaining parts. The party
 3 submitting the request may move for an order under Rule 37(a) with respect to any objection to or other
 4 failure to respond to the request or any part thereof, or any failure to permit inspection as requested.”).
 5 In *E. & J. Gallo Winery*, the court ordered the defendant to provide supplemental responses because the
 6 defendant’s original responses contained imprecise, boilerplate objections:

7 Defendant’s responses do not allow for meaningful evaluation. Plaintiff
 8 and the Court are unable to determine, with certainty, the requests for
 9 which Defendant is producing documents, the requests for which
 10 Defendant is withholding documents and on what basis, and the requests
 11 for which it has no responsive documents. Defendant cites boilerplate
 general objections, and does not explain why the objection applies to the
 response or whether documents were withheld pursuant to the stated
 objections.

11 *Id.* at *4-5.

12 Nelson objects to Request No. 29 on the basis that it is “overbroad, unduly burdensome and
 13 oppressive” and “not relevant to the subject matter of this lawsuit, nor reasonably calculated to lead to
 14 the discovery of admissible evidence.” But Nelson fails to provide any explanation for these objections.
 15 *Keith H. v. Long Beach Unified Sch. Dist.*, 228 F.R.D. 652, 655-56 (C.D. Cal. 2005) (“The party who
 16 resists discovery has the burden to show discovery should not be allowed, and has the burden of
 17 clarifying, explaining, and supporting its objections.”). Moreover, because Nelson’s response is so
 18 broad and unspecific, it is impossible to tell whether documents are being withheld on the basis of the
 19 stated objections, and/or whether responsive documents even exist.

20 Accordingly, Tourgeman requests that this Court order Nelson to provide a supplemental
 21 response to Request No. 29 without the stated objections, provide a substantive response, and produce
 22 any documents improperly withheld from production.

23 **SPECIAL INTERROGATORIES**

24 **SPECIAL INTERROGATORY NO. 1:**

25 Please identify the number of persons and entities in the United States who you contacted for the
 26 purposes of debt collection from July 31, 2007 to the present.

27 [Definitions omitted]

RESPONSE TO SPECIAL INTERROGATORY NO. 1:

Defendant objects to this Interrogatory on the grounds that it is overbroad unduly burdensome and oppressive, and seeks information which is not relevant to the subject matter of this lawsuit, nor reasonably calculated to lead to the discovery of admissible evidence. By propounding this Interrogatory, Plaintiff is simply attempting to impose undue burden and expense on defendant. Further, Defendant does not concede that Plaintiff may pursue this action as a purported class action nor does Defendant concede that, even if class treatment were appropriate, that a class action is proper here, or that Plaintiff is a proper class representative with standing to pursue claims on behalf of a purported class. In addition, the case is not at issue as the Defendant has filed a motion to dismiss and a motion to strike the First Amended Complaint. At best, the Interrogatory is premature.

SUPPLEMENTAL RESPONSE TO SPECIAL INTERROGATORY NO. 1:

Defendant objects to this Interrogatory on the grounds that it is overbroad, unduly burdensome and oppressive, and seeks information which is not relevant to the subject matter of this lawsuit, nor reasonably calculated to lead to the discovery of admissible evidence. In this action, Plaintiff alleges that Defendants sought to collect a debt for a Dell computer, despite the fact that Plaintiff had allegedly paid for the computer in full. Plaintiff admits, however, that he had no documentation to show that he paid the debt in full. Plaintiff also claims that Defendants filed suit against him in the wrong judicial district. Plaintiff has not alleged, and cannot allege, that every consumer that Defendants tried to collect from had already paid their debt in full. Plaintiff has not alleged, and cannot allege, that every lawsuit that was filed by Defendants was filed in the wrong judicial district. Plaintiff has not alleged that Defendant violated federal or state law with respect to every single person or entity in the United States that it contacted for purposes of debt collection, nor could he make such a claim. There is no basis for asking for the total number of persons contacted. Plaintiff is simply attempting to impose undue burden and expense on Defendant. Further, Defendant does not concede that Plaintiff may pursue this action as a purported class action nor does Defendant concede that, even if class treatment were appropriate, that a class action is proper here, or that Plaintiff is a proper class representative with standing to pursue claims on behalf of a purported class. At best, the Interrogatory is premature. Subject to and without waiving the foregoing and the General Objections, Defendant responds as follows:

1 Nelson & Kennard engaged in the business of collecting debts. To do so, the firm not only
2 “contacts” debtors, but it also obtains location information from third parties, interacts with courts,
3 interacts with attorneys, corresponds and communicates with its clients and with other third parties in
4 course of its business. Any of these persons or entities could be someone who was “contacted” by the
5 firm for “the purposes of debt collection.” The firm does not track every single person or entity that it
6 ever makes contact with, so this Interrogatory in its present form is unanswerable, and Plaintiff has not
7 agreed to narrow its scope.

8 Defendant admits that it attempted to contact more than forty debtors in an attempt to collect a
9 debt during the period between July 31, 2007 to the present.

10 **REASONS TO COMPEL RESPONSE TO SPECIAL INTERROGATORY NO. 1:**

11 Federal Rule of Civil Procedure 33 governs the use of interrogatories during discovery. Rule
12 33(b)(3) requires that “[e]ach interrogatory must, to the extent it is not objected to, be answered
13 separately and fully in writing under oath.” Further, all grounds for objection to an interrogatory must
14 be stated “with specificity.” Fed. R. Civ. P. 33(b)(4).

15 Nelson objects to Interrogatory No. 1 on the basis that it is “overbroad, unduly burdensome and
16 oppressive” and “not relevant to the subject matter of this lawsuit, nor reasonably calculated to lead to
17 the discovery of admissible evidence.” Although Nelson appears to argue the merits of the case in its
18 discovery response, Nelson has failed to demonstrate how this Interrogatory is overbroad, unduly
19 burdensome and oppressive. *Blankenship v. Hearst Corp.*, 519 F.2d 418, 429 (9th Cir. 1975) (those
20 opposing discovery are “required to carry a heavy burden of showing” why discovery should be
21 denied). Nelson also argues this Request is inappropriate because Tourgeman has failed to make certain
22 allegations in the Complaint. But the scope of discovery is not limited to the issues presented in the
23 pleadings. *Hampton v. City of San Diego*, 147 F.R.D. 227, 229 (S.D. Cal. 1993). Tourgeman may
24 propound discovery requests if they are reasonably calculated to lead to the discovery of admissible
25 evidence.

26 In September 2009, this court rejected Nelson’s argument that discovery related to “class issues”
27 was premature until the class was certified. Nelson still claims in its supplemental responses that
28 Interrogatory No. 1 is premature because Tourgeman may not pursue this case as a class action.

1 Nelson's claims are inappropriate, especially since Nelson provided the supplemental responses on
2 January 26, 2010, nearly four months after this court rejected Nelson's contention.

3 Further, Nelson continues to ignore the allegations in the Complaint. The Complaint contains
4 class allegations that Nelson engages in improper debt collection activities. Indeed, the Complaint
5 includes class allegations and a class comprised of:

6 All consumers residing in the United States and abroad who, during the
7 period within one year of the date of the filing of the complaint, were
8 contacted or sued in the United States by either Collins Financial or Nelson
& Kennard in an effort to collect an alleged debt.

9 Further, the Complaint contains numerous allegations that Nelson improperly initiates
10 collections and unlawfully files lawsuits against debtors. In particular, the Complaint explicitly alleges
11 that Nelson "fails to take the time and effort to verify the alleged debts or ensure that the lawsuits it files
12 are legitimate and accurate." ¶32. The Complaint also specifies that Nelson "attempts to quickly obtain
13 default judgments against consumers without having original or copies of original agreements to prove
14 the existence, terms, and amount of the debt, and in many cases without having proper information
15 regarding the location of the debtor, thus obtaining default judgments without effectuating proper
16 service." ¶32. The Complaint also notes that "Nelson & Kennard rely on affidavits signed by
17 individuals who the collection law firms know have no knowledge of the underlying facts and file
18 verified complaints in which they attest to the truthfulness and accuracy of the information regarding
19 the alleged debt." ¶35. In other words, regardless of whether the alleged creditor is Collins or the
20 alleged debtor is Tourgeman, Nelson does not verify information before it initiates collections and files
21 lawsuits. As such, Nelson's entire debt collection practices are at issue.

22 Interrogatory No. 1 establishes the number of class members and shows the scope of Nelson's
23 debt collection activities. Originally, Nelson outright refused to answer Interrogatory No. 1. Now,
24 Nelson's supplemental response fails to specify an exact number, merely stating the answer is "more
25 than forty." Under Federal Rule 37, an "evasive or incomplete disclosure, answer, or response" is
26 equivalent to "a failure to disclose, answer, or respond." Fed. R. Civ. P. 37(a)(3).

27 Lastly, Nelson erroneously contends that "[p]laintiff is attempting to impose undue burden and
28 expense on Defendant." Interrogatory No. 1, however, is narrowly tailored as it seeks the **number** of

1 persons contacted for debt collection. The Interrogatory does not require Nelson to engage in
2 burdensome data gathering of personal contact information. Rather, the Interrogatory merely seeks a
3 *number*.

4 Accordingly, Tourgeman requests that this Court order Nelson to provide a supplemental
5 response to Interrogatory No. 1 without the stated objections and provide a substantive response.

6 **SPECIAL INTERROGATORY NO. 2:**

7 Please identify the number of persons and entities in the United States who you sued for the
8 purposes of debt collection from July 31, 2006 to the present.

9 **RESPONSE TO SPECIAL INTERROGATORY NO. 2:**

10 Defendant objects to this Interrogatory on the grounds that it is overbroad unduly burdensome
11 and oppressive, and seeks information which is not relevant to the subject matter of this lawsuit, nor
12 reasonably calculated to lead to the discovery of admissible evidence. By propounding this
13 Interrogatory, Plaintiff is simply attempting to impose undue burden and expense on Defendant.
14 Further, Defendant does not concede that Plaintiff may pursue this action as a purported class action nor
15 does Defendant concede that, even if class treatment were appropriate, that a class action is proper here,
16 or that Plaintiff is a proper class representative with standing to pursue claims on behalf of a purported
17 class. In addition, the case is not at issue as the Defendant has filed a motion to dismiss and a motion to
18 strike the First Amended Complaint. At best, the Interrogatory is premature.

19 **SUPPLEMENTAL RESPONSE TO SPECIAL INTERROGATORY NO. 2:**

20 Defendant objects to this Interrogatory on the grounds that it is overbroad, unduly burdensome
21 and oppressive, and seeks information which is not relevant to the subject matter of this lawsuit, nor
22 reasonably calculated to lead to the discovery of admissible evidence. Plaintiff claims that Defendants
23 sought to collect a debt for a Dell computer, despite the fact that he had allegedly paid for the computer
24 in full. Plaintiff admits, however, that he has no documentation to show that he paid the debt in full.
25 Plaintiff also claims that Defendants filed suit against him in the wrong judicial district. Plaintiff has
26 not alleged, and cannot allege, that every consumer that Defendants tried to collect from had already
27 paid their debt in full. Plaintiff has not alleged, and cannot allege, that every lawsuit that was filed by
28 Defendants was filed in the wrong judicial district. Plaintiff has not alleged that Defendants violated

1 federal or state law with respect to every person or entity in the United States that was sued by
2 Defendants. There is no basis for asking Defendants for the total number of persons or entities sued.
3 Plaintiff is simply attempting to impose undue burden and expense on Defendant. Further, Defendant
4 does not concede that Plaintiff may pursue this action as a purported class action nor does Defendant
5 concede that, even if class treatment were appropriate, that a class action is proper here, or that Plaintiff
6 is a proper class representative with standing to pursue claims on behalf of a purported class. At best,
7 the interrogatory is premature.

8 Subject to and without waiving the foregoing and the General Objections, Defendant responds
9 as follows: From July 31, 2006 to the present, Defendant has filed suit against more than forty debtors.

10 **REASONS TO COMPEL RESPONSE TO SPECIAL INTERROGATORY NO. 2:**

11 Federal Rule of Civil Procedure 33 governs the use of interrogatories during discovery. Rule
12 33(b)(3) requires that “[e]ach interrogatory must, to the extent it is not objected to, be answered
13 separately and fully in writing under oath.” Further, all grounds for objection to an interrogatory must
14 be stated “with specificity.” Fed. R. Civ. P. 33(b)(4).

15 Nelson objects to Interrogatory No. 2 on the basis that it is “overbroad, unduly burdensome and
16 oppressive” and “not relevant to the subject matter of this lawsuit, nor reasonably calculated to lead to
17 the discovery of admissible evidence.” Although Nelson appears to argue the merits of the case in its
18 discovery response, Nelson has failed to demonstrate how this Interrogatory is overbroad, unduly
19 burdensome and oppressive. *Blankenship v. Hearst Corp.*, 519 F.2d 418, 429 (9th Cir. 1975) (those
20 opposing discovery are “required to carry a heavy burden of showing” why discovery should be
21 denied). Nelson also argues this Request is inappropriate because Tourgeman has failed to make certain
22 allegations in the Complaint. But the scope of discovery is not limited to the issues presented in the
23 pleadings. *Hampton v. City of San Diego*, 147 F.R.D. 227, 229 (S.D. Cal. 1993). Tourgeman may
24 propound discovery requests if they are reasonably calculated to lead to the discovery of admissible
25 evidence.

26 In September 2009, this court rejected Nelson’s argument that discovery related to “class issues”
27 was premature until the class was certified. Nelson still claims in its supplemental responses that
28 Interrogatory No. 2 is premature because Tourgeman may not pursue this case as a class action.

1 Nelson's claims are inappropriate, especially since Nelson provided the supplemental responses on
2 January 26, 2010, nearly four months after this court rejected Nelson's contention.

3 Further, Nelson continues to ignore the allegations in the Complaint. The Complaint contains
4 class allegations that Nelson engages in improper debt collection activities. Indeed, the Complaint
5 includes class allegations and a class comprised of:

6 All consumers residing in the United States and abroad who, during the
7 period within one year of the date of the filing of the complaint, were
8 contacted or sued in the United States by either Collins Financial or Nelson
& Kennard in an effort to collect an alleged debt.

9 Further, the Complaint contains numerous allegations that Nelson improperly initiates
10 collections and unlawfully files lawsuits against debtors. In particular, the Complaint explicitly alleges
11 that Nelson "fails to take the time and effort to verify the alleged debts or ensure that the lawsuits it files
12 are legitimate and accurate." ¶32. The Complaint also specifies that Nelson "attempts to quickly obtain
13 default judgments against consumers without having original or copies of original agreements to prove
14 the existence, terms, and amount of the debt, and in many cases without having proper information
15 regarding the location of the debtor, thus obtaining default judgments without effectuating proper
16 service." ¶32. The Complaint also notes that "Nelson & Kennard rely on affidavits signed by
17 individuals who the collection law firms know have no knowledge of the underlying facts and file
18 verified complaints in which they attest to the truthfulness and accuracy of the information regarding
19 the alleged debt." ¶35. In other words, regardless of whether the alleged creditor is Collins or the
20 alleged debtor is Tourgeman, Nelson does not verify information before it initiates collections and files
21 lawsuits. As such, Nelson's entire debt collection practices are at issue.

22 Interrogatory No. 2 establishes the number of class members and shows the scope of Nelson's
23 debt collection activities. Originally, Nelson outright refused to answer Interrogatory No. 2. Now,
24 Nelson's supplemental response fails to specify an exact number, merely stating the answer is "more
25 than forty." Under Federal Rule 37, an "evasive or incomplete disclosure, answer, or response" is
26 equivalent to "a failure to disclose, answer, or respond." Fed. R. Civ. P. 37(a)(3).

27 Lastly, Nelson erroneously contends that "[p]laintiff is attempting to impose undue burden and
28 expense on Defendant." Interrogatory No. 2, however, is narrowly tailored as it seeks the **number** of

1 persons sued for debt collection. The Interrogatory does not require Nelson to engage in burdensome
2 data gathering of personal contact information. Rather, the Interrogatory merely seeks a *number*.

3 Accordingly, Tourgeman requests that this Court order Nelson to provide a supplemental
4 response to Interrogatory No. 2 without the stated objections and provide a substantive response.

5 **SPECIAL INTERROGATORY NO. 4:**

6 Please state the form of Nelson's organization and the date and place the organization was
7 organized and registered and/or licensed to do business.

8 **RESPONSE TO SPECIAL INTERROGATORY NO. 4:**

9 Defendant objects to this Interrogatory on the grounds that it seeks information which is not
10 relevant to the subject matter of this lawsuit, nor reasonably calculated to lead to the discovery of
11 admissible evidence. Subject to and without waiving the forgoing objection or the General Objections,
12 Defendant responds as follows:

13 Nelson & Kennard is a California partnership. It is licensed to do business where necessary.

14 **SUPPLEMENTAL RESPONSE TO SPECIAL INTERROGATORY NO. 4:**

15 Defendant objects to this Interrogatory on the grounds that it seeks information which is not
16 relevant to the subject matter of this lawsuit, nor reasonably calculated to lead to the discovery of
17 admissible evidence. Subject to and without waiving the forgoing objection or the General Objections,
18 Defendant responds as follows:

19 Defendant is a California partnership. It is licensed to do business by the county of Sacramento
20 and its attorneys are licensed to practice law in the State of California. Defendant also maintains a
21 collection agency license in the State of Washington.

22 **REASONS TO COMPEL RESPONSE TO SPECIAL INTERROGATORY NO. 4:**

23 Federal Rule of Civil Procedure 33 governs the use of interrogatories during discovery. Rule
24 33(b)(3) requires that "[e]ach interrogatory must, to the extent it is not objected to, be answered
25 separately and fully in writing under oath." Further, all grounds for objection to an interrogatory must
26 be stated "with specificity." Fed. R. Civ. P. 33(b)(4).

27 Nelson objects to Interrogatory No. 4 on the basis that it is "not relevant to the subject matter of
28 this lawsuit, nor reasonably calculated to lead to the discovery of admissible evidence." But Nelson

1 fails to provide any explanation for this objection. *Blankenship v. Hearst Corp.*, 519 F.2d 418, 429 (9th
2 Cir. 1975) (those opposing discovery are “required to carry a heavy burden of showing” why discovery
3 should be denied).

4 Accordingly, Tourgeman requests that this Court order Nelson to provide a supplemental
5 response to Interrogatory No. 4 without the stated objections and provide a substantive response.

6 **SPECIAL INTERROGATORY NO. 5:**

7 Please describe NELSON’s procedures and policies for receiving debt related information from
8 NELSON’s client.

9 **RESPONSE TO SPECIAL INTERROGATORY NO. 5:**

10 Defendant objects to this Interrogatory on the grounds that it is vague and ambiguous as to the
11 terms “receiving debt related information” and “NELSON’s client.” Nelson & Kennard has a number
12 of different clients and it employs various methods with respect to each of those clients. Defendant also
13 objects to this Interrogatory on the grounds that it is overbroad, unduly burdensome and oppressive, and
14 to the extent that it seeks information which is not relevant to the subject matter of this lawsuit, nor
15 reasonably calculated to lead to the discovery of admissible evidence. Defendant further objects to this
16 Interrogatory to the extent that it seeks proprietary information, trade secret information, information
17 subject to protective orders, confidentiality agreements, or statutory provisions that bar the disclosure of
18 that information without the consent of third parties and to the extent that it seeks information subject to
19 the attorney-client privilege or the attorney work product doctrine.

20 **SUPPLMENTAL RESPONSE TO SPECIAL INTERROGATORY NO. 5:**

21 Defendant objects to this Interrogatory on the grounds that it is vague and ambiguous as to the
22 terms “receiving debt related information” and “NELSON’s client.” This interrogatory is too vague to
23 be answered in its current form and Plaintiff has refused to clarify or narrow it. Nelson & Kennard has
24 a number of different clients and it employees various methods with respect to handling the data
25 supplied by each of those clients. Defendant also objects to this Interrogatory on the grounds that it is
26 overbroad, unduly burdensome and oppressive, and to the extent that it seeks information which is not
27 relevant to the subject matter of this lawsuit, nor reasonably calculated to lead to the discovery of
28 admissible evidence. Plaintiff does not claim that his account data was altered by Nelson & Kennard

1 because the firm employed faulty procedures for “receiving debt related information.” Rather, Plaintiff
2 alleges that he paid Dell in full for his computer before the account was ever sold to Collins Financial
3 Services. Any “debt related information” concerning his account, was according to Plaintiff’s theory,
4 already inaccurate when it was sold to Collins. The law firm’s policies relating to receiving “debt
5 related information” from its client are not relevant. Defendant further objects to this Interrogatory to
6 the extent that it seeks proprietary information, trade secret information, information subject to
7 protective orders, confidentiality agreements, or statutory provisions that bar the disclosure of that
8 information without the consent of third parties and to the extent that it seeks information subject to the
9 attorney-client privilege or the attorney work product doctrine.

10 Subject to and without waiving the forgoing objection or the General Objections, Defendant
11 responds as follows: Pursuant to Federal Rule of Civil Procedure 33(d), Defendant will produce
12 documents responsive to this Interrogatory.

13 **REASONS TO COMPEL RESPONSE TO SPECIAL INTERROGATORY NO. 5:**

14 Federal Rule of Civil Procedure 33 governs the use of interrogatories during discovery. Rule
15 33(b)(3) requires that “[e]ach interrogatory must, to the extent it is not objected to, be answered
16 separately and fully in writing under oath.” Further, all grounds for objection to an interrogatory must
17 be stated “with specificity.” Fed. R. Civ. P. 33(b)(4).

18 Nelson objects to Interrogatory No. 5 on the basis that it is “overbroad, unduly burdensome and
19 oppressive” and “not relevant to the subject matter of this lawsuit, nor reasonably calculated to lead to
20 the discovery of admissible evidence.” Although Nelson appears to argue the merits of the case in its
21 discovery response, Nelson has failed to demonstrate how this Interrogatory is overbroad, unduly
22 burdensome and oppressive. *Blankenship v. Hearst Corp.*, 519 F.2d 418, 429 (9th Cir. 1975) (those
23 opposing discovery are “required to carry a heavy burden of showing” why discovery should be
24 denied).

25 Nelson objects to Interrogatory No. 5 on the basis that the terms “receiving debt related
26 information” and “NELSON’s client” are vague and ambiguous. Nelson, however, has failed to
27 exercise reason and common sense to attribute ordinary definitions to terms and phrases utilized in
28 discovery. *Santana Row Hotel Partners, L.P. v. Zurich Am. Ins. Co.*, 2007 U.S. Dist. LEXIS 31688

(N.D. Cal. 2007). Nelson argues it “has a number of different clients and it employs various methods with respect to handling the data supplied by each of those clients.” This is the exact information this Interrogatory seeks. If Nelson employs various methods for different clients, then Nelson must disclose those methods in its interrogatory response.

Federal Rule of Civil Procedure 26(b)(5) further provides:

When a party withholds information otherwise discoverable by claiming that the information is privileged or subject to protection as trial-preparation material, the party must:

- (i) expressly make the claim; and
- (ii) describe the nature of the documents, communications, or tangible things not produced or disclosed--and do so in a manner that, without revealing information itself privileged or protected, will enable other parties to assess the claim.

“A privilege log should contain the following information: (1) the identity and position of its author; (2) the identity and position of the recipient(s); (3) the date it was prepared or written; (4) the title and description of the document; (5) the subject matter addressed; (6) the purposes for which it was prepared or communicated; (7) the document’s present location; and (8) the specific privilege or other reason it is being withheld.” *Mancini v. Ins. Corp.*, 2009 U.S. Dist. LEXIS 51321, *10 (S.D. Cal. 2009). When asserting the attorney-client privilege, “[t]he party asserting the privilege bears the initial burden of demonstrating that the communication falls within the privilege.” *Bible v. Rio Props., Inc.*, 246 F.R.D. 614, 620 (C.D. Cal. 2007).

Here, Nelson asserts the attorney-client privilege and attorney work product protection to Interrogatory No. 5. The objection is stated simply as “seek[ing] information subject to the attorney-client privilege or the attorney work product doctrine.” Such a blanket assertion of the attorney-client privilege or work product doctrine is insufficient to enable the propounding party to assess the applicability of the privilege or protection to the specific facts of the interrogatory in question. Further, Nelson has failed to produce a privilege log containing any of the above-described information as required by Federal Rule of Civil Procedure 26(b)(5). (Weaver Dec. ¶13). Consequently, the privilege claims cannot be properly evaluated.

1 Nelson also contends that its policies are not relevant. Nelson is wrong. The Complaint
2 contains class allegations that Nelson engages in improper debt collection activities. Indeed, the
3 Complaint includes class allegations and a class comprised of:

4 All consumers residing in the United States and abroad who, during the
5 period within one year of the date of the filing of the complaint, were
6 contacted or sued in the United States by either Collins Financial or Nelson
& Kennard in an effort to collect an alleged debt.

7 Further, the Complaint contains numerous allegations that Nelson improperly initiates
8 collections and unlawfully files lawsuits against debtors. In particular, the Complaint explicitly alleges
9 that Nelson “fails to take the time and effort to verify the alleged debts or ensure that the lawsuits it files
10 are legitimate and accurate.” ¶32. The Complaint also specifies that Nelson “attempts to quickly obtain
11 default judgments against consumers without having original or copies of original agreements to prove
12 the existence, terms, and amount of the debt, and in many cases without having proper information
13 regarding the location of the debtor, thus obtaining default judgments without effectuating proper
14 service.” ¶32. The Complaint also notes that “Nelson & Kennard rely on affidavits signed by
15 individuals who the collection law firms know have no knowledge of the underlying facts and file
16 verified complaints in which they attest to the truthfulness and accuracy of the information regarding
17 the alleged debt.” ¶35. In other words, regardless of whether the alleged creditor is Collins or the
18 alleged debtor is Tourgeman, Nelson does not verify information before it initiates collections and files
19 lawsuits. As such, Nelson’s entire debt collection practices are at issue.

20 The manner in which Nelson receives debt related information is part of its debt collection
21 practices. Therefore, Nelson’s procedures and policies for receiving debt related information are
22 relevant.

23 While Nelson agrees to produce records in response to Interrogatory No. 5 pursuant to Rule
24 33(d), Nelson fails to specify which records. If the served party chooses to respond to an interrogatory
25 by producing business records, the served party must specify, in detail, the records from which the
26 answer may be derived or ascertained and afford the party serving the interrogatory reasonable
27 opportunity to examine, audit, or inspect the record. *See* Fed. R. Civ. P. 33(d); *Mancini v. Ins. Corp.*,
28 2009 U.S. Dist. LEXIS 51321 (S.D. Cal. 2009).

1 As the authorities above reflect, the citation to and production of records as an alternate means
2 for responding to interrogatories is proper so long as the documents produced are the party's "business
3 records" and the description of the records produced in lieu of a response is sufficiently detailed to
4 enable the propounding party to locate them. Here, Nelson's citation to and alleged agreement to
5 produce documents does not satisfy these two requirements. The response is insufficient for two
6 reasons. First, it does not direct Tourgeman to any "business records." Second, even assuming these
7 documents are business records, this response lacks the required specificity. Nelson must at least
8 provide the titles of the documents or Bates numbers of the documents responsive to this Request.

9 Accordingly, Tourgeman requests that this Court order Nelson to provide a supplemental
10 response to Interrogatory No. 5 without the stated objections and provide a substantive response.

11 **SPECIAL INTERROGATORY NO. 7:**

12 Please describe NELSON's procedures and policies for filing a lawsuit for breach of contract on
13 behalf of NELSON's client.

14 **RESPONSE TO SPECIAL INTERROGATORY NO. 7:**

15 Defendant objects to this Interrogatory on the grounds that it is vague and ambiguous as to the
16 terms "procedures and policies for filing a lawsuit" and "NELSON's client." Nelson & Kennard has a
17 number of clients and it employs various methods on behalf of those clients. Defendant also objects to
18 this Interrogatory on the grounds that it is overbroad, unduly burdensome and oppressive, and to the
19 extent that it seeks information which is not relevant to the subject matter of this lawsuit, nor reasonably
20 calculated to lead to the discovery of admissible evidence. Defendant further objects to this
21 Interrogatory to the extent that it seeks proprietary information, trade secret information, information
22 subject to protective orders, confidentiality agreements, or statutory provisions that bar the disclosure of
23 that information without the consent of third parties and to the extent that it seeks information subject to
24 the attorney-client privilege or the attorney work product doctrine.

25 **SUPPLEMENTAL RESPONSE TO SPECIAL INTERROGATORY NO. 7:**

26 Defendant objects to this Interrogatory on the grounds that it is vague and ambiguous as to the
27 terms "procedures and policies for filing a lawsuit" and "NELSON's client." Nelson & Kennard has a
28 number of clients and it employs various methods on behalf of those clients. For purposes of

1 responding to this Interrogatory, Defendant will assume that the client references is Collins Financial
2 Services. Defendant also objects to this Interrogatory on the grounds that it is overbroad, unduly
3 burdensome and oppressive, and to the extent that it seeks information which is not relevant to the
4 subject matter of this lawsuit, nor reasonably calculated to lead to the discovery of admissible evidence.
5 Defendant further objects to this Interrogatory to the extent that it seeks proprietary information, trade
6 secret information, information subject to protective orders, confidentiality agreements, or statutory
7 provisions that bar the disclosure of that information without the consent of third parties and to the
8 extent that it seeks information subject to the attorney-client privilege or the attorney work product
9 doctrine. Subject to and without waiving the forgoing objection of the General Objections, Defendant
10 responds as follows:

11 Once the firm makes a decision to file suit, an employee of the firm will prepare a draft
12 complaint on a California Judicial Council form based on the information received from the client or
13 otherwise available to the firm. The draft complaint is then forwarded to an attorney for review. The
14 reviewing attorney examines the information available to the firm concerning the account and reviews
15 the complaint to ensure that the information plead in it, *i.e.*, the Plaintiff's name, the name of the
16 original creditor, the name of the debtor, the date of the breach of the obligation sued upon, the date of
17 charge-off, amount at issue and type of debt (revolving line of credit or loan, for example) matches the
18 information provided by Defendant's client. The attorney also reviews the complaint to ensure that the
19 exemplar terms and conditions attached as an exhibit, if any, are those that were provided to Defendant
20 in connection with the subject account.

21 Further, the attorney reviews the notes made on the debtor's account to confirm that a letter has
22 been sent to the debtor informing him that if the collection action is filed, Collins Financial Services,
23 Inc. might be entitled to recover its reasonable attorney's fees and court costs as allowed by law in
24 addition to the principal and interest owed. The attorney also reviews the billing and/or delivery
25 addresses reflected in the account media that was provided by Defendant's client related to the subject
26 account, as well as the results of the skiptracing work of the office staff, including the notes made
27 regarding letters sent and received and any notes made regarding forwarding or returning of mail or
28 telephone contact in order to verify the debtor's county of residence. The attorney also reviews the

1 account media in order to confirm the date of last payment received by the original creditor in order to
 2 confirm that a suit is “in statute” at the time it is filed. Finally, the attorney confirms based upon the
 3 information available to the firm that the suit is being filed in the correct judicial district.

4 **REASONS TO COMPEL RESPONSE TO SPECIAL INTERROGATORY NO. 7:**

5 Federal Rule of Civil Procedure 33 governs the use of interrogatories during discovery. Rule
 6 33(b)(3) requires that “[e]ach interrogatory must, to the extent it is not objected to, be answered
 7 separately and fully in writing under oath.” Further, all grounds for objection to an interrogatory must
 8 be stated “with specificity.” Fed. R. Civ. P. 33(b)(4).

9 Nelson objects to Interrogatory No. 7 on the basis that it is “overbroad, unduly burdensome and
 10 oppressive” and “not relevant to the subject matter of this lawsuit, nor reasonably calculated to lead to
 11 the discovery of admissible evidence.” But Nelson fails to provide any explanation for these objections.
 12 *Blankenship v. Hearst Corp.*, 519 F.2d 418, 429 (9th Cir. 1975) (those opposing discovery are “required
 13 to carry a heavy burden of showing” why discovery should be denied).

14 Nelson objects to Interrogatory No. 7 on the basis that the terms “procedures and policies for
 15 filing a lawsuit” and “NELSON’s client” are vague and ambiguous. Nelson, however, has failed to
 16 exercise reason and common sense to attribute ordinary definitions to terms and phrases utilized in
 17 discovery. *Santana Row Hotel Partners, L.P. v. Zurich Am. Ins. Co.*, 2007 U.S. Dist. LEXIS 31688
 18 (N.D. Cal. 2007). Nelson argues it has a “number of clients and it employs various methods on behalf
 19 of those clients.” This is the exact information this Interrogatory seeks. If Nelson employs various
 20 methods for different clients, then Nelson must disclose those methods in its response.

21 Federal Rule of Civil Procedure 26(b)(5) further provides:

22 When a party withholds information otherwise discoverable by claiming
 23 that the information is privileged or subject to protection as trial-
 preparation material, the party must:

- 24 (i) expressly make the claim; and
- 25 (ii) describe the nature of the documents, communications, or tangible things
 26 not produced or disclosed--and do so in a manner that, without revealing
 27 information itself privileged or protected, will enable other parties to
 28 assess the claim.

1 “A privilege log should contain the following information: (1) the identity and position of its
2 author; (2) the identity and position of the recipient(s); (3) the date it was prepared or written; (4) the
3 title and description of the document; (5) the subject matter addressed; (6) the purposes for which it was
4 prepared or communicated; (7) the document’s present location; and (8) the specific privilege or other
5 reason it is being withheld.” *Mancini v. Ins. Corp.*, 2009 U.S. Dist. LEXIS 51321, *10 (S.D. Cal.
6 2009). When asserting the attorney-client privilege, “[t]he party asserting the privilege bears the initial
7 burden of demonstrating that the communication falls within the privilege.” *Bible v. Rio Props., Inc.*,
8 246 F.R.D. 614, 620 (C.D. Cal. 2007).

9 Here, Nelson asserts the attorney-client privilege and attorney work product protection to
10 Interrogatory No. 7. The objection is stated simply as “seek[ing] information subject to the attorney-
11 client privilege or the attorney work product doctrine.” Such a blanket assertion of the attorney-client
12 privilege or work product doctrine is insufficient to enable the propounding party to assess the
13 applicability of the privilege or protection to the specific facts of the interrogatory in question. Further,
14 Nelson has failed to produce a privilege log containing any of the above-described information as
15 required by Federal Rule of Civil Procedure 26(b)(5). (Weaver Dec. ¶13). Consequently, the privilege
16 claims cannot be properly evaluated.

17 Lastly, Nelson’s supplemental response to Interrogatory No. 7 attempts to limit the response to
18 Collins. The Complaint, however, contains class allegations that Nelson engages in improper debt
19 collection activities. Indeed, the Complaint includes class allegations and a class comprised of:

20 All consumers residing in the United States and abroad who, during the
21 period within one year of the date of the filing of the complaint, were
22 contacted or sued in the United States by either Collins Financial or Nelson
& Kennard in an effort to collect an alleged debt.

23 Further, the Complaint contains numerous allegations that Nelson improperly initiates
24 collections and unlawfully files lawsuits against debtors. In particular, the Complaint explicitly alleges
25 that Nelson “fails to take the time and effort to verify the alleged debts or ensure that the lawsuits it files
26 are legitimate and accurate.” ¶32. The Complaint also specifies that Nelson “attempts to quickly obtain
27 default judgments against consumers without having original or copies of original agreements to prove
28 the existence, terms, and amount of the debt, and in many cases without having proper information

1 regarding the location of the debtor, thus obtaining default judgments without effectuating proper
2 service.” ¶32. The Complaint also notes that “Nelson & Kennard rely on affidavits signed by
3 individuals who the collection law firms know have no knowledge of the underlying facts and file
4 verified complaints in which they attest to the truthfulness and accuracy of the information regarding
5 the alleged debt.” ¶35. In other words, regardless of whether the alleged creditor is Collins or the
6 alleged debtor is Tourgeman, Nelson does not verify information before it initiates collections and files
7 lawsuits. As such, Nelson’s entire debt collection practices are at issue.

8 Therefore, Nelson’s procedures and policies for filing a debt-related lawsuit on behalf of all
9 clients, not just Collins, are relevant here.

10 Accordingly, Tourgeman requests that this Court order Nelson to provide a supplemental
11 response to Interrogatory No. 7 without the stated objections and provide a substantive response.

12 **SPECIAL INTERROGATORY NO. 10:**

13 Please describe NELSON’s procedures and policies for settling outstanding alleged debts from
14 alleged debtors.

15 **RESPONSE TO SPECIAL INTERROGATORY NO. 10:**

16 Defendant objects to this Interrogatory on the grounds that it is vague and ambiguous as to the
17 term “procedures and policies for settling.” Nelson & Kennard has a number of clients and it utilized
18 different approaches to settlement based upon the client and the circumstances. Defendant also objects
19 to this Interrogatory on the grounds that it is overbroad, unduly burdensome and oppressive, and to the
20 extent that it seeks information which is not relevant to the subject matter of this lawsuit, nor reasonably
21 calculated to lead to the discovery of admissible evidence. Defendant further objects to this
22 Interrogatory to the extent that it seeks proprietary information, trade secret information, information
23 subject to protective orders, confidentiality agreements, or statutory provisions that bar the disclosure of
24 that information without the consent of third parties and to the extent that it seeks information subject to
25 the attorney-client privilege or the attorney work product doctrine.

26 **REASONS TO COMPEL RESPONSE TO SPECIAL INTERROGATORY NO. 10:**

27 Federal Rule of Civil Procedure 33 governs the use of Interrogatories during discovery. Rule
28 33(b)(3) requires that “[e]ach interrogatory must, to the extent it is not objected to, be answered

1 separately and fully in writing under oath.” Further, all grounds for objection to an interrogatory must
 2 be stated “with specificity.” Fed. R. Civ. P. 33(b)(4). Nelson has not provided any substantive
 3 response to this Interrogatory.

4 Nelson objects to Interrogatory No. **10** on the basis that it is “overbroad, unduly burdensome and
 5 oppressive” and “not relevant to the subject matter of this lawsuit, nor reasonably calculated to lead to
 6 the discovery of admissible evidence.” But Nelson fails to provide any explanation for these objections.
 7 *Blankenship v. Hearst Corp.*, 519 F.2d 418, 429 (9th Cir. 1975) (those opposing discovery are “required
 8 to carry a heavy burden of showing” why discovery should be denied).

9 Nelson objects to Interrogatory No. **10** on the basis that the term “procedures and policies for
 10 settling” is vague and ambiguous. Nelson, however, has failed to exercise reason and common sense to
 11 attribute ordinary definitions to terms and phrases utilized in discovery. *Santana Row Hotel Partners,*
 12 *L.P. v. Zurich Am. Ins. Co.*, 2007 U.S. Dist. LEXIS 31688 (N.D. Cal. 2007). Nelson argues it “has a
 13 number of clients and it utilized different approaches to settlement based upon the client and the
 14 circumstances.” This is the exact information this Interrogatory seeks. If Nelson employs various
 15 methods for different clients, then Nelson must disclose those methods.

16 Federal Rule of Civil Procedure 26(b)(5) further provides:

17 When a party withholds information otherwise discoverable by claiming
 18 that the information is privileged or subject to protection as trial-
 preparation material, the party must:

- 19 (i) expressly make the claim; and
 20 (ii) describe the nature of the documents, communications, or tangible things
 21 not produced or disclosed--and do so in a manner that, without revealing
 22 information itself privileged or protected, will enable other parties to
 assess the claim.

23 “A privilege log should contain the following information: (1) the identity and position of its
 24 author; (2) the identity and position of the recipient(s); (3) the date it was prepared or written; (4) the
 25 title and description of the document; (5) the subject matter addressed; (6) the purposes for which it was
 26 prepared or communicated; (7) the document’s present location; and (8) the specific privilege or other
 27 reason it is being withheld.” *Mancini v. Ins. Corp.*, 2009 U.S. Dist. LEXIS 51321, *10 (S.D. Cal.
 28 2009). When asserting the attorney-client privilege, “[t]he party asserting the privilege bears the initial

1 burden of demonstrating that the communication falls within the privilege.” *Bible v. Rio Props., Inc.*,
2 246 F.R.D. 614, 620 (C.D. Cal. 2007).

3 Here, Nelson asserts the attorney-client privilege and attorney work product protection to
4 Interrogatory No. 10. The objection is stated simply as “seek[ing] information subject to the attorney-
5 client privilege or the attorney work product doctrine.” Such a blanket assertion of the attorney-client
6 privilege or work product doctrine is insufficient to enable the propounding party to assess the
7 applicability of the privilege or protection to the specific facts of the interrogatory in question. Further,
8 Nelson has failed to produce a privilege log containing any of the above-described information as
9 required by Federal Rule of Civil Procedure 26(b)(5). (Weaver Dec. ¶13). Consequently, the privilege
10 claims cannot be properly evaluated.

11 The Complaint alleges that Nelson improperly initiates collections and unlawfully files suits
12 against alleged debtors. The manner in which Nelson settles debts with alleged debtors is one part of its
13 debt collection activities. Therefore, Nelson’s policies and procedures for settling debts tend to show
14 how Nelson settles its debts and reflects upon its debt collection activities. Thus, Interrogatory No. 10
15 is relevant and reasonably calculated to lead to the discovery of admissible evidence.

16 Accordingly, Tourgeman requests that this Court order Nelson to provide a supplemental
17 response to Interrogatory No. 10 without the stated objections and provide a substantive response.

18 **SPECIAL INTERROGATORY NO. 11:**

19 Please identify all creditors that retained NELSON – from July 31, 2006 to the present – for the
20 purpose of collecting debts.

21 **RESPONSE TO SPECIAL INTERROGATORY NO. 11:**

22 Defendant objects to this Interrogatory on the grounds that it is overbroad, unduly burdensome
23 and oppressive, and to the extent that it seeks information which is not relevant to the subject matter of
24 this lawsuit, nor reasonably calculated to lead to the discovery of admissible evidence. There is no
25 basis for identifying other creditors that did not extend credit to Plaintiff and that have no relationship to
26 this case. Defendant further objects to this Interrogatory to the extent that it seeks proprietary
27 information, trade secret information, information subject to protective orders, confidentiality
28 agreements, or statutory provisions that bar the disclosure of that information without the consent of

third parties and to the extent that it seeks information subject to the attorney-client privilege or the attorney work product doctrine.

REASONS TO COMPEL RESPONSE TO SPECIAL INTERROGATORY NO. 11:

Federal Rule of Civil Procedure 33 governs the use of interrogatories during discovery. Rule 33(b)(3) requires that “[e]ach interrogatory must, to the extent it is not objected to, be answered separately and fully in writing under oath.” Further, all grounds for objection to an interrogatory must be stated “with specificity.” Fed. R. Civ. P. 33(b)(4). Nelson has not provided any substantive response to this Interrogatory.

Nelson objects to Interrogatory No. 11 on the basis that it is “overbroad, unduly burdensome and oppressive” and “not relevant to the subject matter of this lawsuit, nor reasonably calculated to lead to the discovery of admissible evidence.” But Nelson fails to provide any explanation for these objections. *Blankenship v. Hearst Corp.*, 519 F.2d 418, 429 (9th Cir. 1975) (those opposing discovery are “required to carry a heavy burden of showing” why discovery should be denied).

Federal Rule of Civil Procedure 26(b)(5) further provides:

When a party withholds information otherwise discoverable by claiming that the information is privileged or subject to protection as trial-preparation material, the party must:

- (i) expressly make the claim; and
- (ii) describe the nature of the documents, communications, or tangible things not produced or disclosed--and do so in a manner that, without revealing information itself privileged or protected, will enable other parties to assess the claim.

“A privilege log should contain the following information: (1) the identity and position of its author; (2) the identity and position of the recipient(s); (3) the date it was prepared or written; (4) the title and description of the document; (5) the subject matter addressed; (6) the purposes for which it was prepared or communicated; (7) the document’s present location; and (8) the specific privilege or other reason it is being withheld.” *Mancini v. Ins. Corp.*, 2009 U.S. Dist. LEXIS 51321, *10 (S.D. Cal. 2009). When asserting the attorney-client privilege, “[t]he party asserting the privilege bears the initial burden of demonstrating that the communication falls within the privilege.” *Bible v. Rio Props., Inc.*, 246 F.R.D. 614, 620 (C.D. Cal. 2007).

Here, Nelson asserts the attorney-client privilege and attorney work product protection to Interrogatory No. 11. The objection is stated simply as “seek[ing] information subject to the attorney-client privilege or the attorney work product doctrine.” Such a blanket assertion of the attorney-client privilege or work product doctrine is insufficient to enable the propounding party to assess the applicability of the privilege or protection to the specific facts of the interrogatory in question. Further, Nelson has failed to produce a privilege log containing any of the above-described information as required by Federal Rule of Civil Procedure 26(b)(5). (Weaver Dec. ¶13). Consequently, the privilege claims cannot be properly evaluated.

Nelson objects to Interrogatory No. 11 on relevancy grounds, arguing that “there is no basis for identifying other creditors that did not extend credit to Plaintiff.” Nelson is wrong. Creditors that retained Nelson from July 31, 2006 to the present may have information regarding Nelson’s debt collection activities and could potentially testify as witnesses. Since Nelson’s debt collection activities are directly at issue here, this Interrogatory is within the scope of the Federal Rules of Civil Procedure.

Accordingly, Tourgeman requests that this Court order Nelson to provide a supplemental response to Interrogatory No. 11 without the stated objections and provide a substantive response.

SPECIAL INTERROGATORY NO. 13:

Did NELSON make any substantive change in company policy from July 31, 2006 to the present? If so, please identify and describe any substantive changes NELSON made – from July 31, 2006 to the present – to any NELSON policy or procedure in an effort to comply with the provision of the Federal [sic] Debt Collection Practices Act.

RESPONSE TO SPECIAL INTERROGATORY NO. 13:

Defendant objects to this Interrogatory on the grounds that it is vague and ambiguous regarding the term “substantive change in company policy.” The firm of Nelson & Kennard complies with the FDCPA and engages in ongoing efforts to ensure compliance. Subject to and without waiving the forgoing objections or the General Objections, Defendant responds as follows: Defendant exercises its option to produce records in response to this Interrogatory pursuant to Rule 33(d) of the Federal Rules of Civil Procedure.

REASONS TO COMPEL RESPONSE TO SPECIAL INTERROGATORY NO. 13:

Federal Rule of Civil Procedure 33 governs the use of interrogatories during discovery. Rule 33(b)(3) requires that “[e]ach interrogatory must, to the extent it is not objected to, be answered separately and fully in writing under oath.” Further, all grounds for objection to an interrogatory must be stated “with specificity.” Fed. R. Civ. P. 33(b)(4).

Nelson objects to Interrogatory No. 13 on the basis that the term “substantive change in company policy” is “vague and ambiguous.” Nelson, however, has failed to exercise reason and common sense to attribute ordinary definitions to terms and phrases utilized in discovery. *Santana Row Hotel Partners, L.P. v. Zurich Am. Ins. Co.*, 2007 U.S. Dist. LEXIS 31688 (N.D. Cal. 2007). Because Nelson has failed to demonstrate how this Interrogatory is vague and ambiguous, this boilerplate objection cannot be sustained.

While Nelson agrees to produce records in response to Interrogatory No. 13 pursuant to Rule 33(d), Nelson fails to specify which records. If the served party chooses to respond to an interrogatory by producing business records, the served party must specify, in detail, the records from which the answer may be derived or ascertained and afford the party serving the interrogatory reasonable opportunity to examine, audit, or inspect the record. *See* Fed. R. Civ. P. 33(d); *Mancini v. Ins. Corp.*, 2009 U.S. Dist. LEXIS 51321 (S.D. Cal. 2009).

As the authorities above reflect, the citation to and production of records as an alternate means for responding to interrogatories is proper so long as the documents produced are the party’s “business records” and the description of the records produced in lieu of a response is sufficiently detailed to enable the propounding party to locate them. Here, Nelson’s citation to and alleged agreement to produce documents does not satisfy these two requirements. The response is insufficient for two reasons. First, it does not direct Tourgeman to any “business records.” Second, even assuming these documents are business records, this response lacks the required specificity. Nelson must at least provide the titles of the documents or Bates numbers of the documents responsive to this Request.

Accordingly, Tourgeman requests that this Court order Nelson to provide a supplemental response to Interrogatory No. 13 without the stated objections and provide a substantive response.

SPECIAL INTERROGATORY NO. 14:

Please describe the compensation agreements between NELSON and any creditor that used NELSON to file complaints against alleged debtors for breach of contract and Rule 3.740 collections.

RESPONSE TO SPECIAL INTERROGATORY NO. 14:

Defendant objects to this Interrogatory on the grounds that it is overbroad, unduly burdensome and oppressive, and to the extent that it seeks information which is not relevant to the subject matter of this lawsuit, nor reasonably calculated to lead to the discovery of admissible evidence. The compensation arrangements between Nelson & Kennard and its clients have nothing to do with the allegations of this case. There is no legitimate basis for requesting this information, other than to harass and annoy Defendant. Defendant further objects to this Interrogatory to the extent that it seeks proprietary information, trade secret information, information subject to protective orders, confidentiality agreements, or statutory provisions that bar the disclosure of that information without the consent of third parties and to the extent that it seeks information subject to the attorney-client privilege or the attorney work product doctrine..

REASONS TO COMPEL RESPONSE TO SPECIAL INTERROGATORY NO. 14:

Federal Rule of Civil Procedure 33 governs the use of interrogatories during discovery. Rule 33(b)(3) requires that “[e]ach interrogatory must, to the extent it is not objected to, be answered separately and fully in writing under oath.” Further, all grounds for objection to an interrogatory must be stated “with specificity.” Fed. R. Civ. P. 33(b)(4). Nelson has not provided any substantive response to this interrogatory.

Nelson objects to Interrogatory No. 14 on the basis that it is “overbroad, unduly burdensome and oppressive” and “not relevant to the subject matter of this lawsuit, nor reasonably calculated to lead to the discovery of admissible evidence.” But Nelson fails to provide any explanation for these objections. *Blankenship v. Hearst Corp.*, 519 F.2d 418, 429 (9th Cir. 1975) (those opposing discovery are “required to carry a heavy burden of showing” why discovery should be denied).

Federal Rule of Civil Procedure 26(b)(5) further provides:

When a party withholds information otherwise discoverable by claiming that the information is privileged or subject to protection as trial-preparation material, the party must:

- 1 (i) expressly make the claim; and
- 2 (ii) describe the nature of the documents, communications, or tangible things
3 not produced or disclosed--and do so in a manner that, without revealing
4 information itself privileged or protected, will enable other parties to
5 assess the claim.

6 “A privilege log should contain the following information: (1) the identity and position of its
7 author; (2) the identity and position of the recipient(s); (3) the date it was prepared or written; (4) the
8 title and description of the document; (5) the subject matter addressed; (6) the purposes for which it was
9 prepared or communicated; (7) the document’s present location; and (8) the specific privilege or other
10 reason it is being withheld.” *Mancini v. Ins. Corp.*, 2009 U.S. Dist. LEXIS 51321, *10 (S.D. Cal.
11 2009). When asserting the attorney-client privilege, “[t]he party asserting the privilege bears the initial
12 burden of demonstrating that the communication falls within the privilege.” *Bible v. Rio Props., Inc.*,
13 246 F.R.D. 614, 620 (C.D. Cal. 2007).

14 Here, Nelson asserts the attorney-client privilege and attorney work product protection to
15 Interrogatory No. 14. The objection is stated simply as “seek[ing] information subject to the attorney-
16 client privilege or the attorney work product doctrine.” Such a blanket assertion of the attorney-client
17 privilege or work product doctrine is insufficient to enable the propounding party to assess the
18 applicability of the privilege or protection to the specific facts of the Interrogatory in question. Further,
19 Nelson has failed to produce a privilege log containing any of the above-described information as
20 required by Federal Rule of Civil Procedure 26(b)(5). (Weaver Dec. ¶13). Consequently, the privilege
21 claims cannot be properly evaluated.

22 Nelson also objects to Interrogatory No. 14 on relevancy grounds, arguing “there is no
23 legitimate basis to ask for this information.” Nelson is wrong. Nelson’s compensation agreements with
24 other creditors evidences Nelson’s incentive structure, reveals how Nelson prioritizes its efforts against
25 certain debtors, and further explains the extent of Nelson’s debt collection activities. Since Nelson’s
26 debt collection practices are directly at issue here, this Interrogatory is within the scope of the Federal
27 Rules of Civil Procedure.
28

1 Accordingly, Tourgeman requests that this Court order Nelson to provide a supplemental
2 response to Interrogatory No. 14 without the stated objections and provide a substantive response.

3 **SPECIAL INTERROGATORY NO. 16:**

4 Please identify the number of demand letters NELSON sent to alleged debtors from July 2006 to
5 the present.

6 **RESPONSE TO SPECIAL INTERROGATORY NO. 16:**

7 Defendant also objects to this Interrogatory on the grounds that it is overbroad, unduly
8 burdensome and oppressive, and to the extent that it seeks information which is not relevant to the
9 subject matter of this lawsuit, nor reasonably calculated to lead to the discovery of admissible evidence.
10 This case does not challenge the contents of any demand letter sent by Nelson & Kennard. Further,
11 Defendant does not concede that Plaintiff may pursue this action as a purported class action nor does
12 Defendant concede that, even if class treatment were appropriate, that a class action is proper here, or
13 that Plaintiff is a proper class representative with standing to pursue claims on behalf of a purported
14 class. At best, the Interrogatory is premature.

15 **SUPPLEMENTAL RESPONSE TO SPECIAL INTERROGATORY NO. 16:**

16 Defendant also objects to this Interrogatory on the grounds that it is overbroad, unduly
17 burdensome and oppressive, and to the extent that it seeks information which is not relevant to the
18 subject matter of this lawsuit, nor reasonably calculated to lead to the discovery of admissible evidence.
19 This case does not challenge the contents of any demand letter sent by Nelson & Kennard, nor does
20 Plaintiff seek to certify a class of debtors who received letters. There is no basis for demanding that the
21 firm disclose how many letters were sent. Defendant does not concede that Plaintiff may pursue this
22 action as a purported class action nor does Defendant concede that, even if class treatment were
23 appropriate, that a class action is proper here, or that Plaintiff is a proper class representative with
24 standing to pursue claims on behalf of a purported class. At best, the Interrogatory is premature.

25 Subject to and without waiving the foregoing and the General Objections, Defendant responds
26 as follows: from July 2006 to the present, Defendant sent letters to more than forty debtors in an
27 attempt to collect a debt.
28

REASONS TO COMPEL RESPONSE TO SPECIAL INTERROGATORY NO. 16:

Federal Rule of Civil Procedure 33 governs the use of interrogatories during discovery. Rule 33(b)(3) requires that “[e]ach interrogatory must, to the extent it is not objected to, be answered separately and fully in writing under oath.” Further, all grounds for objection to an interrogatory must be stated “with specificity.” Fed. R. Civ. P. 33(b)(4).

Nelson objects to Interrogatory No. 16 on the basis that it is “overbroad, unduly burdensome and oppressive” and “not relevant to the subject matter of this lawsuit, nor reasonably calculated to lead to the discovery of admissible evidence.” Although Nelson appears to argue the merits of the case in its discovery response, Nelson has failed to demonstrate how this Interrogatory is overbroad, unduly burdensome and oppressive. *Blankenship v. Hearst Corp.*, 519 F.2d 418, 429 (9th Cir. 1975) (those opposing discovery are “required to carry a heavy burden of showing” why discovery should be denied).

In September 2009, this court rejected Nelson’s argument that discovery related to “class issues” was premature until the class was certified. Nelson still claims in its supplemental response that Interrogatory No. 16 is premature because Tourgeman may not pursue this case as a class action. Nelson’s contention is inappropriate, especially since Nelson provided the supplemental response on January 26, 2010, nearly four months after this court rejected Nelson’s contention.

Further, Nelson continues to ignore the allegations in the Complaint. The Complaint contains class allegations that Nelson engages in improper debt collection activities. Indeed, the Complaint includes class allegations and a class comprised of:

All consumers residing in the United States and abroad who, during the period within one year of the date of the filing of the complaint, were contacted or sued in the United States by either Collins Financial or Nelson & Kennard in an effort to collect an alleged debt.

Further, the Complaint contains numerous allegations that Nelson improperly initiates collections and unlawfully files lawsuits against debtors. In particular, the Complaint explicitly alleges that Nelson “fails to take the time and effort to verify the alleged debts or ensure that the lawsuits it files are legitimate and accurate.” ¶32. The Complaint also specifies that Nelson “attempts to quickly obtain default judgments against consumers without having original or copies of original agreements to prove

the existence, terms, and amount of the debt, and in many cases without having proper information regarding the location of the debtor, thus obtaining default judgments without effectuating proper service.” ¶32. The Complaint also notes that “Nelson & Kennard rely on affidavits signed by individuals who the collection law firms know have no knowledge of the underlying facts and file verified complaints in which they attest to the truthfulness and accuracy of the information regarding the alleged debt.” ¶35. In other words, regardless of whether the alleged creditor is Collins or the alleged debtor is Tourgeman, Nelson does not verify information before it initiates collections and files lawsuits. As such, Nelson’s entire debt collection practices are at issue.

The information sought in this Request establishes the number of class members and shows the scope of Nelson’s debt collection activities. Originally, Nelson outright refused to answer Interrogatory No. 16. Now, Nelson’s supplemental response fails to specify an exact number, merely stating the answer is “more than forty.” Under Federal Rule 37, an “evasive or incomplete disclosure, answer, or response” is equivalent to “a failure to disclose, answer, or respond.” Fed. R. Civ. P. 37(a)(3).

Lastly, Interrogatory No. 16 is narrowly tailored as it seeks the *number* of demand letters Nelson sent to alleged debtors from July 2006 to the present. The Interrogatory does not require Nelson to engage in burdensome data gathering of personal contact information. Rather, the Interrogatory merely seeks a *number*.

Accordingly, Tourgeman requests that this Court order Nelson to provide a supplemental response to Interrogatory No. 16 without the stated objections and provide a substantive response.

SPECIAL INTERROGATORY NO. 18:

Please describe the process NELSON uses to skip trace debtors in the event of a debtor’s address or phone number change.

RESPONSE TO SPECIAL INTERROGATORY NO. 18:

Defendant objects to this Interrogatory on the grounds that it is vague and ambiguous.

Subject to and without waiving the forgoing objections or the General Objections, Defendant responds as follows: Nelson & Kennard does not skip trace debtors if the debtor’s address or phone number change. The firm simply enters the new address or phone number into its account records.

REASONS TO COMPEL RESPONSE TO SPECIAL INTERROGATORY NO. 18:

Federal Rule of Civil Procedure 33 governs the use of interrogatories during discovery. Rule 33(b)(3) requires that “[e]ach interrogatory must, to the extent it is not objected to, be answered separately and fully in writing under oath.” Further, all grounds for objection to an interrogatory must be stated “with specificity.” Fed. R. Civ. P. 33(b)(4).

Nelson objects to Interrogatory No. 18 on the basis that the interrogatory is “vague and ambiguous” without specifying how or why. Nelson has failed to exercise reason and common sense to attribute ordinary definitions to terms and phrases utilized in discovery. *Santana Row Hotel Partners, L.P. v. Zurich Am. Ins. Co.*, 2007 U.S. Dist. LEXIS 31688 (N.D. Cal. 2007). Skip tracing is a process frequently utilized by debt collectors to locate debtors. Nelson admits in its supplemental response to Interrogatory No. 7 that it skip traces debtors. Thus, Nelson is familiar with the terminology and the process.

Accordingly, Tourgeman requests that this Court order Nelson to provide a supplemental response to Interrogatory No. 18 without the stated objections and provide a substantive response.

SPECIAL INTERROGATORY NO. 19:

Please describe the position at NELSON that prepares the affidavit authorizing legal action against an alleged debtor, including but not limited to the position’s duties, responsibilities, job requirements, and the number of people who perform this task for NELSON.

RESPONSE TO SPECIAL INTERROGATORY NO. 19:

Defendant objects to this Interrogatory on the grounds that it is vague and ambiguous generally and as to the phrase “the position at NELSON that prepares the affidavit authorizing legal action.”

Subject to and without waiving the forgoing objections or the General Objections, Defendant responds as follows: There is no such affidavit or position at Nelson & Kennard as described in this interrogatory.

REASONS TO COMPEL RESPONSE TO SPECIAL INTERROGATORY NO. 19:

Federal Rule of Civil Procedure 33 governs the use of interrogatories during discovery. Rule 33(b)(3) requires that “[e]ach interrogatory must, to the extent it is not objected to, be answered separately and fully in writing under oath.” Further, all grounds for objection to an interrogatory must

1 be stated "with specificity." Fed. R. Civ. P. 33(b)(4).

2 Nelson objects to Interrogatory No. 19 on the basis that the term "the position at NELSON that
3 prepares the affidavits authorizing legal action" is vague and ambiguous. Nelson has failed to exercise
4 reason and common sense to attribute ordinary definitions to terms and phrases utilized in discovery.
5 *Santana Row Hotel Partners, L.P. v. Zurich Am. Ins. Co.*, 2007 U.S. Dist. LEXIS 31688 (N.D. Cal.
6 2007).

7 Accordingly, Tourgeman requests that this Court order Nelson to provide a supplemental
8 response to Interrogatory No. 19 without the stated objections and provide a substantive response.
9

10 Dated: March 5, 2010

JOHNSON BOTTINI, LLP
FRANCIS A. BOTTINI, JR.
BRETT M. WEAVER

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12
13 By: /s/ Brett Weaver

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